

House of Representatives

Supplementary Order Paper

Tuesday, 22 August 2023

Water Services Legislation Bill

Proposed amendments for the consideration of the Committee of the whole House

Key:

- **this is inserted text**
- **~~this is deleted text~~**

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
- **NOT have the status of an as-reported version of the Bill.**

Explanatory note

This Supplementary Order Paper (SOP) amends the Water Services Legislation Bill (the **Bill**) to—

- align the Bill with the establishment arrangements for water services entities, as those establishment arrangements were changed by the Water Services Entities Amendment Bill (for example, to clarify references to a water services entity’s establishment date):
- ensure that specified new sections of the Water Services Entities Act 2022 and amendments made by this Bill to that Act come into force on the day after the date of Royal assent of this Bill instead of 1 July 2024:
- adjust provisions relating to the management of overland flow paths and water-courses to maintain their general policy but improve their workability:
- ensure that the transitional provisions in clauses 17, 18, and 22 of Schedule 1 of the Water Services Entities Act 2022 apply only for the period specified in *new clause 16B* of that schedule:
- ensure that the transitional provisions in clauses 31 and 22 of Schedule 1 of the Water Services Entities Act 2022 apply only for the period specified in *new clause 30A* of that schedule:
- ensure that specified legislation relating to local government and to provision of water services or to water services infrastructure continues to apply to the Chatham Islands Territory, and to the territorial authority to be known as the Chatham Islands Council constituted for that Territory, because that Territory—
 - is not part of a service area of a water services entity under the Water Services Entities Act 2022; and
 - is not subject to that Act and to related amendments to other legislation:
- align the Bill with the Natural and Built Environment Bill and the Spatial Planning Bill, which are currently awaiting Royal assent:
- remove duplication and spent provisions and to make various drafting corrections and other drafting improvements to ensure the legislative regime for water services is consistent and integrated across the Water Services Entities Act 2022, the Water Services Act 2021, and related legislation.

Departmental disclosure statement

The Department of Internal Affairs considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.

The Honourable Kieran McAnulty, in Committee, to propose the amendments shown in the following document.

Hon Kieran McAnulty

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Government Bill

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*Legislation related to local government and to provision
of water services or to water services infrastructure*

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Water Services Legislation Act **2022**.

2 Commencement

- (1) ~~Section 23 and Schedule 1 come into force on the day after the date of Royal assent.~~
- (2) ~~The rest of this Act comes into force—~~
- (a) ~~on a date set by the Governor-General by Order in Council; or~~
- (b) ~~to the extent not brought into force earlier, on 1 July 2024.~~
- (3) ~~An Order in Council made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).~~
- (1) This Act comes into force on the day after the date of Royal assent.
- (2) However, Part 2 comes into force on 1 July 2024, except that—
- (a) sections 111, 186, 188, 191, 192, 193, 196, and 200 come into force on the day after the date of Royal assent; and
- (b) section 197 comes into force on 4 October 2023.

Part 1 Amendments to Water Services Entities Act 2022

3 Principal Act

This Part amends the Water Services Entities Act 2022.

3A Section 2 amended (Commencement)

- (1) In **section 2(1A)(b)**, replace “section 210(1)(a)” with “**section 474(1)(a)**”.
- (2) After **section 2(1A)**, insert:

*Commencement of **Water Services Legislation Act 2023***

- (1B) The following provisions come into force on the day after the date of Royal assent of the **Water Services Legislation Act 2023**:

- (a) **sections 461 and 465** so far as they relate to—
 - (i) an Order in Council made under **section 6A** setting establishment dates for 1 or more water services entities;
 - (ii) regulations made under **section 474(1)(a)**;
 - (iii) a Government policy statement issued under **clause 8** of Schedule 1;
 - (iv) a direction for shared services given under **clause 8A** of Schedule 1;
- (b) **section 474(1)(a), (2), (2A), (3), (4), and (7)** (which contains regulation-making powers);
- (c) **section 475A** (which relates to delegations by the chief executive of a water services entity).

4 Section 5 amended (Provisions on Te Tiriti o Waitangi/the Treaty of Waitangi)

- (1) After section 5(b), insert:
 - (ba) in section 13(d), that a function of a water services entity is to partner and engage with mana whenua in its service area:
- (2) After section 5(g), insert:
 - (h) in **section 161(1)(ia)**, that provides that the annual reports of water services entities must contain information on actions they have taken to give effect to te Tiriti o Waitangi/the Treaty of Waitangi with reference to each of the other matters listed in this section:
 - (i) in **section 474(2)**, that there must be engagement with mana whenua:
 - (k) in **clauses 37 and 77 of Schedule 1**, that ~~during the establishment period for water services entities,~~ all persons performing or exercising duties, functions, or powers under **Part 1 or 2 of Schedule 1** must uphold the integrity, intent, and effect of Treaty settlement obligations:

- (ka) in **clause 77A of Schedule 1**, that the Crown must uphold the integrity, intent, and effect of Treaty settlement obligations in accordance with that clause:
- (kb) in ~~clauses 78 and 78A~~ **clause 78 of Schedule 1**, that relevant water services entities are to be responsible for agreements, arrangements, or understandings that local authorities have entered with mana whenua relating to water services ~~transfer to water services entities~~:
- (kc) in **clause 23 of Schedule 2A**, that all persons performing or exercising duties, functions, or powers under Schedule 2A must uphold the integrity, intent, and effect of Treaty settlement obligations:
- (kd) in **clause 24 of Schedule 2A**, that the water services entity established by a merger order is to be responsible for agreements, arrangements, or understandings that water services entities disestablished by the merger order have entered with mana whenua relating to water services:
- (l) in **clause 8 of Schedule 5**, that a subsidiary of a water services entity must give effect to Treaty settlement obligations that apply to the parent entity and are relevant to the purpose and objectives of the subsidiary.

5 Section 6 amended (Interpretation)

(1AAA) In section 6, definition of **board**, replace “not less” with “no fewer”.

(1) In section 6, definition of **regulations**, replace “section 210” with “**sections 474 or section 475** (as the case may be)”.

(1A) In section 6, definition of **stormwater network**, after paragraph (b)(ii), insert:

(iii) watercourses that are part of, or related to, the infrastructure described in paragraph (a); but

(2) In section 6, definition of **stormwater network**, after paragraph (b), insert:

(c) does not include a transport stormwater system

(2A) In section 6, replace the definition of **Te Mana o te Wai** with:

Te Mana o te Wai—

(a) has the meaning set out in the national planning framework made by Order in Council under **section 34 of the Natural and Built Environment Act 2022**; and

(b) applies, for the purposes of this Act, to water (as that term is defined in this section).

(2B) In section 6, definition of **water**, paragraph (a), replace “section 2(1) of the Resource Management Act 1991” with “**section 7(1) of the Natural and Built Environment Act 2022**”.

(2C) In section 6, definition of **water body**,—

- (a) paragraph (a), replace “section 2(1) of the Resource Management Act 1991” with “**section 7(1) of the Natural and Built Environment Act 2022**”:
- (b) paragraph (b)(ii), replace “section 2(1)” with “**section 7(1)**”.
- (3) In section 6, definition of **water supply**, replace paragraph (c) with:
- (c) a small mixed-use rural water supply
- (3A) In section 6, definition of **water supply network**, replace “used by” with “used by, for, or on behalf of”.
- (4) In section 6, insert in their appropriate alphabetical order:
- administering body** has the same meaning as in section 2(1) of the Reserves Act 1977
- alternative operator**, in relation to a small mixed-use rural water ~~service supply~~, means any of the following who has submitted a transfer proposal under ~~section 236(1) clause 2 of Schedule 6~~ in respect of the ~~service supply~~:
- (a) 1 or more individuals who are users of the ~~service supply~~:
- (b) an entity incorporated by and owned solely by 1 or more users of the ~~service supply~~
- ~~**board** means members of the board of a water services entity who number no fewer than the required quorum acting together as a board~~
- building, building code, building consent, and building work** have the same meanings as in section 7(1) of the Building Act 2004
- company** has the same meaning as in section 2(1) of the Companies Act 1993
- compliance officer** means a person appointed under **section 357**
- compliance requirement** means a requirement, rule, condition, or restriction imposed by—
- (a) a direction issued under this Act by a compliance officer in accordance with **section 364**:
- (b) an order issued under this Act by the Director of Compliance and Enforcement or a court in accordance with **section 362**:
- (c) a trade waste permit in accordance with **section 267**:
- (d) a controlled drinking water catchment management plan in accordance with **section 232**:
- (e) stormwater network rules in accordance with **section 260**:
- (ea) rules relating to specified classes of work in certain places in accordance with **section 285**:
- (f) an offence provision or an infringement offence provision in or under this Act in accordance with **sections 408 to 416**:

- (g) a set of powers under this Act relating to a water supply network (in accordance with **section 392**), a wastewater network (in accordance with **sections 394 and 395**), or a stormwater network (in accordance with **section 285**) and the protection of that network

~~**consumer** means a person who acquires, consumes, or is provided with water supply, wastewater, or stormwater services by a water services entity~~

consumer—

- (a) means a person who acquires, consumes, or is provided with water services by a water services entity; and
- (b) includes a person who owns property that is not connected to water services infrastructure

determination, in relation to a supplier of regulated goods or services, means a determination made by the Commission that applies to a supplier

Director of Compliance and Enforcement or **Director**, in relation to a water services entity, means the person appointed by the water services entity under **section 351**

drinking water safety plan means a plan prepared under section 30 of the Water Services Act 2021

environmental contribution has the same meaning as in **section 7(1) of the Natural and Built Environment Act 2022**

establishment date, for a water services entity, means the water services entity's establishment date under **section 6A(3A) or (4)**

establishment period, for a water services entity, means the period—

- (a) starting on the date on which the water services entity is established under section 11 (as inserted by the **Water Services Entities Amendment Act 2023**); and
- (b) ending on the water services entity's establishment date (as defined in this section)

farmland means land that is being worked in the farming or agricultural business of the land's owner

home—

- (a) means a place occupied as a dwelling house; and
- (b) includes any garden, yard, garage, outhouse, or other appurtenance of a dwelling house

level crossing has the same meaning as in section 4(1) of the Railways Act 2005

long-term plan has the same meaning as in section 5(1) of the Local Government Act 2002

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

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

Maori land with more than 10 owners means any Maori land whose legal ownership is vested in more than 10 persons

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

marae includes the area of land on which buildings such as wharenui, wharekai, wharepaku, papakāinga, and any other associated buildings are situated

officer of Parliament means an Ombudsman holding office under the Ombudsmen Act 1975, the Parliamentary Commissioner for the Environment, or the Controller and Auditor-General

operator, in relation to a drinking water supply, wastewater network, or stormwater network,—

- (a) means the person who operates the drinking water supply, wastewater network, or stormwater network or supervises its operation or aspects of its operation; and
- (b) includes—
 - (i) a water services entity, a public stormwater network owner or operator, and a private stormwater network owner or operator;
 - (ii) an organisation or individual involved in the operation of the drinking water supply, wastewater network, or stormwater network if the organisation or individual is authorised to be involved in its operation in accordance with any agreement or arrangement, including any shared services agreement or subsidiary arrangement

public conservation land means land that is held or administered under the Conservation Act 1987 or any of the Acts specified in Schedule 1 of that Act, unless authorised by the Minister of Conservation or their delegate

rating information database, in relation to a local authority, means the database that the local authority keeps and maintains under section 27 of the Local Government (Rating) Act 2002

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

regional planning committee has the same meaning as in **section 7(1) of the Natural and Built Environment Act 2022**

regional spatial strategy means the same meaning as in **section 8(1) of the Spatial Planning Act 2022**

reserve has the same meaning as in section 2(1) of the Reserves Act 1977

resource consent has the same meaning as in ~~section 87 of the Resource Management Act 1991~~ **section 7(1) of the Natural and Built Environment Act 2022**

road—

- (a) means a road as defined in section 315(1) of the Local Government Act 1974; and
- (b) includes—
 - (i) a road under the jurisdiction of a local authority;
 - (ii) a public footpath;
 - (iii) a State highway within the meaning of section 2(1) of the Government Roading Powers Act 1989; but
- (c) does not include—
 - (i) public conservation land;
 - (ii) a private road as defined in section 315(1) of the Local Government Act 1974;
 - (iii) a motorway within the meaning of section 2(1) of the Government Roading Powers Act 1989;
 - (iv) any roadway laid out by order of the Maori Land Court under sections 315 to 327 of Te Ture Whenua Maori Act 1993, except where that order has been cancelled, or where the roadway has been declared under section 320 of that Act to be a road

sitework has the same meaning as in section 7(1) of the Building Act 2004

small mixed-use rural water supply means a water supply owned by a water services entity that meets both of the following criteria:

- (a) 85% or more of the total volume of water supplied by the supply is for agricultural or horticultural purposes; and
- (b) 1,000 or fewer homes (not being homes on farmland) rely on the supply for drinking water and other domestic household purposes

specified serious risk means a serious risk of, or to, any of the following relating to the delivery of water services:

- (a) illness, injury, or death;
- (b) public health;
- (c) the natural or a built environment;
- (d) water services infrastructure;
- (e) sites of cultural significance

subsidiary, in relation to a water services entity,—

- (a) means a company or body corporate in which 1 or more water services entities—
 - (i) control the composition of the board of the company or body corporate; or
 - (ii) are in a position to exercise, or control the exercise of, more than ~~one~~ half the maximum number of votes that can be exercised at a meeting of the company or body corporate; or
 - (iii) hold more than ~~one~~ half of the issued shares of the company or body corporate, other than shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital; or
 - (iv) are entitled to receive more than ~~one~~ half of every dividend paid on shares issued by the company or body corporate, other than shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital; and
- (b) includes a company in which—
 - (i) 2 or more water services entities hold shares; and
 - (ii) the combined shareholding produces 1 or more of the circumstances described in **paragraph (a)**

trade waste—

- (a) means any waste that is—
 - (i) produced for an industrial or trade purpose, or a related purpose; and
 - (ii) discharged into a wastewater network; but
- (b) does not include any class of waste or material that has been specified not to be trade waste by a trade waste plan under **section 270(2)**

trade waste carrier means a person that transports trade waste (other than by reticulation)

trade waste permit means a permit issued under **section 267**

trade waste premises means premises used, or intended to be used, for—

- (a) an industrial or a trade purpose; or
- (b) the storage, transfer, treatment, or discharge of trade waste

trading subsidiary means a subsidiary that operates a trading undertaking for the purpose of making a profit

transport corridor manager means—

- (a) the New Zealand Transport Agency established under section 93 of the Land Transport Management Act 2003:

- (b) KiwiRail Limited;
- (c) Auckland Transport established under section 38 of the Local Government (Auckland Council) Act 2009;
- (d) any local authority that has, in relation to a road as defined in section 315(1) of the Local Government Act 1974, jurisdiction over the road

transport stormwater system—

- (a) means the infrastructure owned or operated by, or processes used by, a transport corridor manager to collect, treat, drain, store, reuse, or discharge stormwater relating to a transport corridor; and
- (b) includes—
 - (i) an overland flow path (as defined in this section);
 - (ii) green water services infrastructure that delivers stormwater services (as defined in this section)

urban area—

- (a) means an area identified in a district plan or a proposed district plan as being primarily zoned, or intended to be for, residential, industrial, commercial and mixed use, or settlement activities, together with adjoining special-purpose and open-space and recreation zones, however described; but
- (b) does not include any other area zoned primarily for rural activities, however described

utility operator has the same meaning as in section 4 of the Utilities Access Act 2010

variable volumetric charge means a charge where the unit rate varies depending on the volume of water supplied or the volume of wastewater discharged (or both)

watercourse means a watercourse that is part of, or related to, the drainage or discharge of stormwater in an urban area

water services debt means any charge or fee required to be paid to a water services entity under this Act

- (5) In section 6, insert as subsection (2):
- (2) For the purposes of **Part 10, applicant**, in respect of an application made under that Part, includes any person who, after the application is made, acquires responsibility for a property that is the subject of the application.

5A Section 6A amended (Act applies to water services entity, and its service area, only on and after that entity’s establishment date)

In section 6A(5B), replace “section 206” with “section 461”.

6 Section 11 amended (Water services entities established)

In section 11(2)(4)(a), replace “section 210(1)(d)” with “**section 474(1)(h)**”.

7 Section 13 replaced (Functions of water services entities)

Replace section 13 with:

13 Functions of water services entities

The functions of each water services entity are—

- (a) to provide safe, reliable, and efficient water services in its area; and
- (aa) to enter into shared services arrangements related to all or any activities specified in **section 137A(3)** (for example, related to debt funding and management), whether or not those shared services arrangements are required to give effect to a direction given under **section 137A**; and
- (b) to own or operate water services infrastructure; and
- (c) to partner and engage with its territorial authority owners; and
- (d) to partner and engage with mana whenua in its service area; and
- (e) to engage with consumers and communities in its service area; and
- (f) to engage and co-operate with other water services entities on matters relating to the provision of water services that cross service area boundaries; and
- (g) to provide advice, information, funding, and support to its regional representative group (and any regional advisory panel) to enable the regional representative group (and any regional advisory panel) to perform or exercise its duties, functions, and powers in accordance with this Act and the water services entity’s constitution; and
- (h) to charge for services that a water services entity provides to consumers in accordance with **section 321** and any other legislation; and
- (i) to administer regulatory requirements (for example, rules or plans) relating to water services that a water services entity is responsible for; and
- (j) to collaborate with other agencies, organisations, and individuals in the water services sector; and
- (k) to collaborate with, and provide assistance or advice to, overseas agencies and organisations, as required, but only if doing so would not adversely affect the water services entity in carrying out its other functions and meeting its objectives; and
- (l) to build, maintain, and support the capability of the water services sector; and
- (m) to facilitate, promote, and support research, education, and training relating to water services; and

- (n) to provide guidance, advice, and information on matters relating to water services; and
- (o) to mitigate the effects of climate change and natural hazards, and support and enable climate change adaptation; and
- (oa) to identify hazards relating to water services, assess risks relating to those hazards, and manage, control, monitor, or eliminate those risks; and
- (p) to ensure that communities have access to drinking water if existing suppliers are facing significant problems; and
- (r) to own or operate 1 or more subsidiaries (including those subsidiaries that trade with other persons) if the only functions the subsidiary performs are functions specified in **paragraphs (a) to (s)**; and
- (s) to perform or exercise the duties, functions, or powers conferred or imposed on it by this Act or any other legislation; and
- (t) any functions that are incidental and related to, or consequential on, its functions set out in **paragraphs (a) to (s)**.

8 Section 15 amended (Status of water services entities)

In section 15(5)(a), delete “as defined in section 2(1) of the Companies Act 1993”.

9 Section 18 amended (Other things water services entities can do)

After section 18(2), insert:

- (3) A water services entity—
 - (a) may establish, own (in whole or in part), or operate a subsidiary only if the subsidiary complies with the requirements specified in **Schedule 5**; and
 - (b) may not enter into a partnership with another person or persons.
- (4) In this section, **partnership** has the meaning ~~given to it under~~ set out in sections 8 and 9 of the Partnership Law Act 2019.

10 Section 97 amended (Process for amending or replacing constitution)

In section 97(9), replace “section 210(d)” with “**section 474(4)**”.

In section 97(10), replace “section 210(4)” with “**section 474(4)**”.

11 Section 118 amended (Obligation to maintain water services)

- (1) In section 118(2)(b) and (c)(i), replace “Schedule 4” with “**Part 8** or Schedule 4”.
- (2) After section 118(2)(c), insert:
 - (d) transfer any of its significant infrastructure to a subsidiary that the water services entity owns or operates.

12 Section 119 amended (Contracts relating to provision of water services)

- (1) In section 119(1), after “Despite section 118”, insert “or anything in the Infrastructure Funding and Financing Act 2020”.
- (2) In section 119(2), after “subsection (1)”, insert “with any person (including a subsidiary that it owns or operates)”.

12A Section 120 amended (Joint arrangements for purpose of providing water services)

- (1) In section 120(1), replace “Section 118 does not prevent” with “Nothing in section 118 or the Infrastructure Funding and Financing Act 2020 prevents”.
- (2) In section 120(2), delete “in accordance with section 206”.
- (3) After section 120(2), insert:

- (2A) In conducting the engagement, the board of the water services entity must—
- (a) comply with the requirements set out in **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.

12B Section 131 amended (Outline of Part (financial and accountability matters))

In section 131(1), (4), and (5), replace “sections 206 to 209” with “**sections 461 to 464**” in each place.

13 Section 133 amended (Purpose and content of Government policy statement)

- (1) After section 133(3)(a)(vii), insert:
 - (viii) geographic averaging of residential water supply and residential wastewater service prices across each water services entity’s service area:
 - (ix) redressing historic service inequities:
 - (x) overall direction and priorities for charging arrangements for water services:
- (2) After section 133(3), insert:
- (4) **Subsection (3)(a)(viii)** applies only to a Government policy statement issued on and after **1 July 2027** ~~1 July 2029~~.
- (5) **Subsection (3)(a)(x)** and this subsection are repealed on **1 July 2027** ~~1 July 2029~~.

14 Section 134 amended (Preparation or review of Government policy statement)

~~In section 134(b), replace “section 206” with “**section 461**”.~~

- (1) In section 134(b), delete “in accordance with section 206”.
- (2) In section 134, insert as subsection (2):
- (2) In conducting the engagement, the Minister must—
 - (a) comply with the requirements set out in **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.

15 Section 137B amended (Process for giving directions under section 137A)

- (1) In **section 137B(1) and (1A)(a)**, replace “section 206” with “**section 461**”.
- (2) In **section 137B(1B)**, replace “**section 206A**” with “**section 465**”.
- (3) In **section 137B(3)**, replace “section 206, as applied by this section, applies” with “**sections 461 to 465** apply”.

15A Section 139 amended (Purpose and content of statement of strategic and performance expectations)

In section 139(2)(c), replace “section 208” with “**section 464**”.

15B Section 144 amended (Water services entity must respond to Te Mana o te Wai statement for water services)

- (1) In section 144(1)(b), delete “in accordance with section 206”.
- (2) After section 144(1), insert:
- (1A) In conducting the engagement, the board of the water services entity must—
 - (a) comply with the requirements set out in **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.

15C Section 145C amended (What regional representative group must or may do in response to statement)

In **section 145C(2)**, replace “section 207” with “**section 463**”.

15D Section 148 amended (Board must prepare statement of intent)

After section 148(4), insert:

- (4A) However, subsection (4) does not apply to a statement of intent modified in accordance with clause 6 of Schedule 3 if the modification—

- (a) has no more than a minor effect; or
- (b) corrects errors or makes similar technical alterations.

16 Section 149 amended (Content of statement of intent)

In section 149(3)(b), replace “financial statements” with “forecast financial statements”.

17 Section 153 replaced (Obligation to publish asset management plan)

Replace section 153 with:

153 Obligation to publish asset management plan

As soon as practicable after an asset management plan is provided to the regional representative group, the chief executive of a water services entity must publish the asset management plan on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible.

18 Section 155 amended (Content of funding and pricing plan)

(1) Replace section 155(1)(b) with:

- (b) the water services entity’s intended approach to—
 - (i) pricing its services and charging consumers; and
 - (ii) complying with the charging principles specified in **section 331**; and

(2) After section 155(1)(c), insert:

- (d) the water infrastructure contribution policy of the water services entity.

19 Section 156 replaced (Obligation to publish funding and pricing plan)

Replace section 156 with:

156 Obligation to publish funding and pricing plan

As soon as practicable after a funding and pricing plan is provided to the regional representative group, the chief executive of a water services entity must publish the funding and pricing plan on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible.

19A Section 158 amended (Content of infrastructure strategy)

After section 158(7), insert:

(7A) However, subsection (7) does not apply to an infrastructure strategy modified in accordance with clause 24 of Schedule 3 if the modification—

- (a) has no more than a minor effect; or
- (b) corrects errors or makes similar technical alterations.

20 Section 159 replaced (Obligation to publish infrastructure strategy)

Replace section 159 with:

159 Obligation to publish infrastructure strategy

As soon as practicable after an infrastructure strategy is provided to the regional representative group, the chief executive of a water services entity must publish the infrastructure strategy on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible.

21 Section 161 amended (Form and content of annual report)

(1) After section 161(1)(i), insert:

(ia) information on actions a water services entity has taken to give effect to te Tiriti o Waitangi/the Treaty of Waitangi with reference to each of the matters listed in section 5 (apart from **section 5(h)**):

(2) After section 161(1)(k), insert:

(ka) information on how the Director of Compliance and Enforcement of the water services entity has exercised their compliance and enforcement powers under this Act in the previous financial year:

21A Section 165 amended (Audit report)

(1) In section 165(2), replace “3 months” with “4 months”.

(2) ~~In section 165(3)(a), replace “Act” with “Act, including an assessment as to whether a water services entity’s annual financial statements, statement of service delivery performance, and any other information that the Auditor General has agreed, or is required, to audit achieve their purpose”.~~

(2) Repeal section 165(3)(a).

21B Section 175 amended (Monitor’s power to request information)

After section 175(2), insert:

(3) For the purposes of this section, **relevant person** excludes an officer of Parliament.

21C New Part 5A inserted

After section 199, insert:

Part 5A
Relationship agreements

199A Requirement to enter into relationship agreement

(1) A water services entity and each of the following must enter into a relationship agreement under this section:

- (a) a territorial authority owner;
 - (b) a regional council whose boundary is inside, or overlaps with, the water services entity's service area;
 - (c) a transport corridor manager that owns or operates a transport storm-water system.
- (2) The relationship agreement may be entered into by a water services entity with—
- (a) any 1 of the parties listed in **subsection (1)**; or
 - (b) any 2 or more of the parties listed in **subsection (1)**.
- (3) A relationship agreement is binding on the parties concerned.
- (4) A relationship agreement under this section remains in force until the agreement is replaced by another agreement.
- (5) Nothing in this section precludes a water services entity from entering a relationship agreement with any other party relating to the provision of water services (for example, an iwi or hapū).

199B Contents of relationship agreement

- (1) A relationship agreement must—
- (a) be in writing; and
 - (b) identify the parties to the agreement; and
 - (c) set out—
 - (i) the general principles governing the relationship between the parties (for example, acting in good faith); and
 - (ii) how the parties will work together in relation to the performance or exercise of any statutory functions, powers, or duties (for example, stormwater management, spatial and land use planning, emergency management, and Treaty settlement obligations); and
 - (iii) how the parties will engage with each other, and work together, in relation to the provision of, and planning for, water services; and
 - (iv) how the parties will engage with each other, and work together, in relation to areas where they have shared interests; and
 - (v) any information sharing between the parties; and
 - (vi) how the parties will report on compliance with the relationship agreement.
- (2) The relationship agreement may provide for any other matters that the parties consider appropriate.
- (3) A relationship agreement must not limit any compliance or enforcement powers or obligations that the parties to the agreement have in relation to each other and has no effect to the extent that it does so.

199C Further requirements relating to relationship agreements between water services entities and local authorities

- (1) A relationship agreement between a water services entity and a territorial authority required by **section 199A(1)** must set out—
 - (a) how the territorial authority is to work with the water services entity when the territorial authority is performing or exercising its functions, duties, or powers under the Building Act 2004; and
 - (b) how the water services entity will engage with the territorial authority on the water services entity's assessment of water services required by **section 245**.
- (2) A relationship agreement between a water services entity and a territorial authority or regional council required by **section 199A(1)** must set out how the territorial authority or regional council is to work with the water services entity in relation to planning processes, including (without limitation) in relation to—
 - (a) the preparation by the territorial authority of standards, policy statements, or plans required by ~~Part 5 of the Resource Management Act 1991~~ the **Natural and Built Environment Act 2022**; and
 - (b) resource consents issued under ~~Part 6 of the Resource Management Act 1991~~ **Part 5 of the Natural and Built Environment Act 2022**; and
 - (c) when the territorial authority is performing or exercising its functions, duties, or powers under ~~Part 10 of the Resource Management Act 1991~~ **Part 9 of the Natural and Built Environment Act 2022**.

199D Disputes between parties to relationship agreement

- (1) This section applies if a dispute arises between parties to a relationship agreement on a matter they are required under the agreement to work together on, jointly develop, or agree.
- (2) The parties—
 - (a) may by agreement undertake a binding process or non-binding process of dispute resolution; but
 - (b) if they do not reach agreement on a non-binding process, or the dispute remains unresolved after a non-binding process has been undertaken, must undertake a binding process of dispute resolution.
- (3) If the parties undertake a binding process, the parties must refer the dispute to arbitration under the Arbitration Act 1996 and the provisions of that Act apply to the dispute.

199E Review of relationship agreement

A relationship agreement must be reviewed within 5 years of the date on which the agreement is made and at least once every 5 years after a previous review.

199F Parties to relationship agreement may enter into service-level agreement

- (1) The parties to a relationship agreement may choose to enter into a service-level agreement relating to the provision of a service to which the relationship agreement applies.
- (2) A service-level agreement must—
 - (a) identify the parties to the agreement; and
 - (b) specify the services to which the agreement applies and does not apply; and
 - (c) set out the parties' respective roles and responsibilities for the management, operation, or maintenance of the services to which the agreement applies and how those responsibilities will be allocated; and
 - (d) set out information relating to how the services will be funded.

22 Part 6 replaced

Replace Part 6 with:

Part 6
Provisions relating to water services infrastructure

Subpart 1—Water services infrastructure on, over, or under land

200 Power to carry out work in relation to water services infrastructure on, over, or under land

- (1) A water services entity may carry out the following work that it considers necessary or desirable for the provision of water services:
 - (a) constructing or placing water services infrastructure on, over, or under land or under a building on land;
 - (b) managing, controlling, monitoring, or eliminating any risks relating to water services infrastructure;
 - (c) operating, inspecting, maintaining, altering, renewing, or replacing any water services infrastructure on, over, or under land or under a building on land;
 - (d) doing work relating to an overland flow path or watercourse.
- (2) A water services entity may exercise the power to carry out work specified in **subsection (1)(a)** only—
 - (a) with the prior written consent of, and in accordance with any reasonable conditions imposed by, the owner of the land; or
 - (b) if it has ~~obtained an order under **section 204** authorising it to carry out the work~~ complied with **section 203**.

- (3) A water services entity must exercise the power to carry out work specified in **subsection (1)(b) or (c), (c), or (d)** in accordance with any reasonable conditions imposed by the owner of the land or by an order made under **section 204** (as the case requires).
- (4) A condition referred to in **subsection (3)** may not limit or override any new or existing legally binding agreement between the owner of the land and the water services entity relating to water services.
- (5) Nothing in **subsection (1)(a)** applies in respect of—
- (a) land owned by the Crown; or
 - (b) land held or administered under the Conservation Act 1987 or any of the Acts specified in Schedule 1 of that Act.
- (6) Despite **subsection (5)(b), subsection (1)(a)** applies to land administered by a local authority under the Reserves Act 1977.
- Compare: 2001 No 103 s 135

201 Notice required before carrying out work on, over, or under land

- (1) Before a water services entity proceeds to carry out any work under **section 200(1)**, the water services entity must notify the owner and occupier of the land of—
- (a) its intention to enter the land and carry out the work;
 - (b) any change to the date or time of a proposed entry.
- (2) A notice under **subsection (1)** must—
- (a) be in writing; and
 - (b) be given at least ~~15~~ 30 working days before the proposed work is to start; and
 - (c) specify—
 - (i) the location of the proposed entry; and
 - (ii) the date and time of the proposed entry; and
 - (iii) the nature of the work to be carried out and the reasons for it; and
 - (iv) the length of time that an officer, employee, or agent of the water services entity expects to be on the land or in the building.
- (3) This section applies subject to **sections 207 to 210** (which set out specific requirements that apply in respect of carrying out work in relation to water services infrastructure on or under certain land).

202 Water services entity to be notified of conditions of work

- (1) Not later than 10 working days after receiving notice of a water services entity's intention to carry out work under **section 200(1)(b) or (c)**, the owner of the land must give written notice to the water services entity of any conditions imposed under **section 200(3)**.

- (2) If the owner of the land fails to comply with **subsection (1)**, any conditions imposed do not apply, and the water services entity may start the work.

Compare: 2001 No 103 ss 137, 138

203 Application to District Court to carry out work

- (1) This section applies if an owner of land—
- (a) has not granted consent for a water services entity to carry out work under **section 200(1)(a)** within 15 working days of receiving a notice under **section 201**; or
 - (b) has granted consent for the water services entity to carry out work under **section 200(1)(a)** subject to conditions that the water services entity considers to be unreasonable.
- (2) The water services entity may apply to the District Court for an order under **section 204** authorising it to carry out the work.
- (3) The water services entity must give the owner of the land at least 10 working days' notice of its intention to apply to the District Court under this section.

Compare: 2001 No 103 s 120

203 Process if consent to carry out work under section 200(1)(a) refused or granted subject to unreasonable conditions

- (1) This section applies if an owner of land has received a notice under **section 201** that a water services entity proposes to carry out work specified in **section 200(1)(a)** and the owner of land—
- (a) has not granted consent to the work being carried out within 30 working days of receiving the notice from the water services entity under **section 201**; or
 - (b) has notified the water services entity that the owner consents to the work being carried out subject to conditions but the water services entity considers those conditions to be unreasonable.
- (2) The water services entity must—
- (a) appoint a day for a hearing in relation to the matter; and
 - (b) give the owner reasonable notice of the day, time, and place of hearing so as to enable the owner to attend the hearing; and
 - (c) hold a meeting on the day appointed, and may, after hearing any matters raised by the owner, if present, determine—
 - (i) to abandon the works proposed; or
 - (ii) to proceed with the works proposed, with or without any alterations that the water services entity thinks fit.
- (3) A person who is aggrieved by a determination of the water services entity under **subsection (2)(c)(ii)** to proceed with the proposed works (with or without alterations) may appeal to the District Court under **section 226**.

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(4) Pending the decision of the court on the appeal, the water services entity must not proceed with the proposed works.

Compare: 2002 No 84 Sch 12, cl 1(d), (e), (2), (3)

204 Court order Application to District Court if consent to carry out work under section 200(1)(b) to (d) refused or granted subject to unreasonable conditions

(1AAA) This section applies if an owner of land has received a notice under **section 201** that a water services entity proposes to carry out work specified in any of **section 200(1)(b) to (d)** and the owner of land—

- (a) has not granted consent to the work being carried out within 30 working days of receiving the notice from the water services entity under **section 201**; or
- (b) has notified the water services entity that the owner consents to the work being carried out subject to conditions but the water services entity considers those conditions to be unreasonable.

(1AAB) The water services entity may apply to the District Court for an order under this section authorising it to carry out the work.

(1AAC) The water services entity must give the owner of the land at least 10 working days' notice of its intention to apply to the District Court under this section.

- (1) The District Court may, if satisfied that the requirements in **subsection (2)** have been met, make an order authorising the water services entity to—
 - (a) enter the land at reasonable times, with or without any person who is, or anything that is, reasonably necessary for the purposes of carrying out the work;
 - (b) carry out the work.
- (2) The requirements are that—
 - (a) carrying out the work is necessary or desirable for the provision of water services; and
 - (b) the water services entity has taken reasonable steps to obtain the consent of the owner of the land; and
 - (c) in relation to the construction or placement of the water services infrastructure, the water services entity has given adequate consideration to alternative routes.
- (3) An order made under **subsection (1)** must specify—
 - (a) how and when entry may be made; and
 - (b) the specific powers that may be exercised; and
 - (c) any other conditions (including conditions relating to the payment of compensation under the Public Works Act 1981) that the District Court thinks fit to impose.

- (4) Before making an order under **subsection (1)**, the District Court must have regard to the particulars of any applicable resource consent or building consent.

Compare: 2001 No 103 ss 121, 122

205 Service of order

Before exercising any powers authorised by an order made under **section 204**, the water services entity must serve a copy of the order on the owner and occupier of the land to which the order relates.

Compare: 2001 No 103 s 123

206 Requirement to produce evidence of authority and identity

An officer, employee, or agent of a water services entity acting under an order made under **section 204** must produce evidence of their authority and identity—

- (a) on initial entry; and
- (b) after the initial entry, on request.

Compare: 2001 No 103 s 124

Specific requirements for carrying out work in relation to water services infrastructure on or under Maori land

207 Specific requirements for carrying out work under section 200(1) in relation to land on which marae or urupā is situated or that is Maori reservation

- (1) This section applies if a water services entity wishes to carry out any work described in **section 200(1)** in relation to water services infrastructure ~~on or~~ on, over, or under the following:
- (a) land on which a marae or an urupā is situated;
 - (b) land that is a Maori reservation.
- (2) The water services entity may enter the land and carry out the work only if—
- (a) it has been granted consent by the owners of the land to carry out the work; and
 - (b) at least ~~15~~ 30 working days before commencing the work, it has given notice to the owners and any occupier of the land of its intention to enter the land and carry out the work.
- (3) **Section 201(2)** applies to a notice given under **subsection (2)(b)** as if it were a notice given under that section.
- (4) This section applies subject to **section 208**.

208 Specific requirements for carrying out work under section 200(1)(a) in relation to Maori land with more than 10 owners

- (1) This section applies if a water services entity wishes to carry out—

- (a) work described in **section 200(1)(a)** in relation to water services infrastructure ~~on or~~ on, over, or under Maori land with more than 10 owners; or
- (b) work described in any of ~~section 200(1)(b) or (c)~~ **section 200(1)(b) to (d)** in relation to water services infrastructure ~~on or~~ on, over, or under land—
- (i) that is Maori land with more than 10 owners; and
- (ii) in respect of which **section 207(1)** applies.
- (2) The water services entity may enter the land and carry out the work only if—
- (a) it has been granted consent by the owners of the land; and
- (b) at least 30 working days before commencing the work, it has done one of the following:
- (i) given written notice of its intention to enter the land and carry out the work to the trustees of the principal marae of the hapū associated with the land;
- (ii) published a notice on an Internet site maintained by, or on behalf of, the Maori Land Court or in the Maori Land Court Pānui (or both) relating to its intention to enter the land and carry out the work;
- (iii) served notice on the Registrar of the Maori Land Court in accordance with section 181 of Te Ture Whenua Maori Act 1993 of its intention to enter the land and carry out the work.
- (3) If, for the purposes of **subsection (2)(a)**, consent is required to enter the land, decisions relating to that consent must be made in accordance with Parts 9 and 10 of Te Ture Whenua Maori Act 1993.

209 Specific requirements for carrying out work under ~~section 200(1)(b) or (c)~~ **section 200(1)(b) to (d) in relation to Maori land with more than 10 owners**

- (1) This section applies if a water services entity wishes to carry out any work described in any of ~~section 200(1)(b) or (c)~~ **section 200(1)(b) to (d)** in relation to water services infrastructure ~~on or~~ on, over, or under land—
- (a) that is Maori land with more than 10 owners; and
- (b) in respect of which **section 207** does not apply.
- (2) The water services entity may enter the land and carry out the work only if, at least 30 working days before commencing the work, it has done one of the following:
- (aaa) obtained the consent of the owners of the land:

- (a) given written notice of its intention to enter the land and carry out the work to the trustees of the principal marae of the hapū associated with the land:
- (b) published a notice on an Internet site maintained by, or on behalf of, the Maori Land Court or in the Maori Land Court Pānui (or both) relating to its intention to enter the land and carry out the work:
- (c) served notice on the Registrar of the Maori Land Court in accordance with section 181 of Te Ture Whenua Maori Act 1993 of its intention to enter the land and carry out the work.

210 Notice required before carrying out work on or under reserve vested in post-settlement governance entity

- (1) This section applies if a water services entity wishes to carry out work described in **section 200(1)** in relation to water services infrastructure on or under land that is a reserve that is—
 - (a) vested in a post-settlement governance entity under a Treaty settlement Act; and
 - (b) managed by an administering body that is a local authority.
- (2) Before commencing the work, the water services entity must give notice of its intention to enter the land and carry out the work to the post-settlement governance entity and the administering body.
- (3) **Section 201(2)** applies to a notice given under **subsection (2)** as if it were a notice given under that section.
- (4) The requirement to give notice under **subsection (2)** applies in addition to the obligations of a water services entity set out in **section 200(2) and (3)** in relation to carrying out the work.

Subpart 2—Water services infrastructure on or under roads

211 Power to carry out work in relation to water services infrastructure on or under roads

- (1) A water services entity may carry out the following work that it considers necessary for the provision of water services:
 - (a) constructing, placing, operating, inspecting, maintaining, altering, renewing, or replacing water services infrastructure on, along, over, across, or under any road:
 - (b) removing any obstruction or blockage relating to water services infrastructure, or clearing any flora that constitutes a risk to, water services infrastructure on, along, over, across, or under any road:
 - (c) for the purposes of **paragraphs (a) and (b)**,—
 - (i) working in any road:

- (ii) altering the position of, or altering, repairing, or removing, any gas, electricity, or telecommunications infrastructure or any part of that infrastructure on, along, over, across, or under any road.
- (2) A water services entity must exercise the powers specified in **subsection (1)** in accordance with any reasonable conditions imposed by the road owner, other person who has jurisdiction over the road, or utility operator whose infrastructure is likely to be affected by the work.

Compare: 2001 No 103 s 135

212 Notice required before carrying out work ~~under-on or under road~~

- (1) Before a water services entity proceeds to carry out any work under **section 211(1)**, the water services entity must notify the road owner, other person who has jurisdiction over the road, or utility operator whose infrastructure is likely to be affected by the work.
- (2) A notice under **subsection (1)** must—
 - (a) be in writing; and
 - (b) be given at least 15 working days before the proposed work is to start; and
 - (c) specify—
 - (i) the location of the proposed work; and
 - (ii) the date and time when the proposed work is to start; and
 - (iii) the nature of the work to be carried out and the reasons for it; and
 - (iv) the length of time the water services entity expects the work to continue.

Compare: 2001 No 103 s 136

213 Water services entity to be notified of conditions

- (1) Not later than 15 working days after receiving notice of a water services entity's intention to carry out work under **section 211(1)**, the road owner, other person who has jurisdiction over the road, or utility operator whose infrastructure is likely to be affected by the work must give written notice to the water services entity of any reasonable conditions imposed under **section 211(2)**.
- (2) If a person fails to comply with **subsection (1)**, any conditions imposed do not apply, and the water services entity may start the work.

Compare: 2001 No 103 ss 137, 138

Subpart 3—Level crossings

214 Rights of entry in respect of level crossings

- (1) This section applies if a water services entity—

- (a) wishes to enter a level crossing for the purpose of constructing or maintaining any works on, along, over, across, or under the level crossing; and
 - (b) has been unable to negotiate an agreement for entry after taking all reasonable steps to do so.
- (2) The water services entity may, after giving the owner or occupier of the level crossing not less than 15 working days' notice of its intention to enter the level crossing, apply to the District Court for an order under this section to enter the level crossing and carry out the work.
- (3) The District Court may, if satisfied that the requirements in **subsection (4)** have been met, make an order authorising the water services entity to—
- (a) enter the level crossing at reasonable times, with or without any person who is, or anything that is, reasonably necessary for the purposes of carrying out the work:
 - (b) carry out the work.
- (4) The requirements are that—
- (a) carrying out the work is necessary or desirable for the provision of water services; and
 - (b) the water services entity has taken all reasonable steps to negotiate an agreement for entry onto the land; and
 - (c) in relation to the construction or placement of the water services infrastructure, no practical alternative route exists.
- (5) An order made under **subsection (3)**—
- (a) may authorise the water services entity to—
 - (i) enter and re-enter the level crossing at reasonable times, with or without the assistants, aircraft, boats, vehicles, appliances, machinery, and equipment that are reasonably necessary for the construction or maintenance of any works:
 - (ii) perform the work that may be reasonably necessary to construct or maintain any works:
 - (b) must specify—
 - (i) how and when entry may be made; and
 - (ii) the specific powers that may be exercised; and
 - (iii) any other conditions (including conditions relating to the payment of compensation) that the District Court thinks fit to impose.

Compare: 1992 No 124 s 32; 1992 No 122 s 31

215 Service of order

Before exercising any powers authorised by an order made under **section 214(3)**, the water services entity must serve a copy of the order on the owner of the level crossing to which the order relates.

Compare: 2001 No 103 s 123

216 Requirement to produce evidence of authority and identity

An officer, employee, or agent of a water services entity acting under an order made under **section 214(3)** must carry and produce evidence of their authority and identity—

- (a) on initial entry; and
- (b) after the initial entry, on request.

Compare: 2001 No 103 s 124

Subpart 4—Further provisions relating to water services infrastructure

*Immediate action in emergency***217 Power to take immediate action in case of emergency or specified serious risk**

- (1) This section applies if—
 - (a) an emergency has been declared under the Water Services Act 2021, the Civil Defence Emergency Management Act 2002, the Hazardous Substances and New Organisms Act 1996, or the Biosecurity Act 1993 and the immediate action is necessary to respond to the emergency; or
 - (b) an officer, employee, or agent of a water services entity believes, on reasonable grounds, that a specified serious risk exists.
- (2) An officer, employee, or agent of a water services entity—
 - (a) may take immediate action to carry out any work described in—
 - (i) **section 200(1)(a) or 207(1)** without complying with the requirement to obtain consent before entering the land; and
 - (ii) **section 200(1)(b) or (c) or 211(1)** without complying with the requirement to give notice before entering the land; and
 - (b) must give the information required by **section 201(2)(c) or 212(2)(c)** as soon as practicable after commencing the work, including by providing information about the action taken and the reasons for taking the action.
- (3) An officer, employee, or agent of the water services entity, while exercising powers under this section in respect of the land or road, must—
 - (a) carry evidence of their authority and identity; and
 - (b) produce the evidence on request.

Compensation

218 Compensation

- (1) The exercise of a power set out in **sections 200(1)** applies subject to Part 5 of the Public Works Act 1981 as to compensation for injurious affection to land.
- (2) The amount of the compensation may be agreed between the water services entity and the person concerned or, failing agreement, be determined in the manner provided for by the Public Works Act 1981.

Compare: 2001 No 103 s 154; 2002 No 84 s 181(6)

Protection and maintenance of water services infrastructure

219 Protection of water services infrastructure on, over, or under land, road, or level crossing not owned by water services entity

- (1) This section applies to any water services infrastructure that—
 - (a) is on, over, or under land that is not owned by a water services entity; or
 - (b) is on, along, over, across, or under any road or level crossing that is not owned by a water services entity.
- (2) The water services infrastructure is to be treated as being lawfully fixed or installed, and continues to be lawfully fixed or installed, until the water services entity decides otherwise.
- (3) No person other than the water services entity has an interest in any water services infrastructure by reason only of having an interest in the land.

Compare: 2001 No 103 s 155

220 Management and maintenance of water services infrastructure

- (1AAA) A water services entity must manage and maintain the water services infrastructure in its service area (including meeting the costs of doing so).
- (1AAB) A water services entity is responsible for managing and maintaining all overland flow paths and watercourses in an urban area other than a stormwater network that is owned or operated by a public stormwater network owner or operator (for example, a transport-network corridor manager) within the meaning of **section 252B**.
- (1) An owner or occupier of land on, over, or under which any existing water services infrastructure is constructed or placed is not required to maintain the infrastructure.
- (2) However, if the owner or occupier has—
 - (a) ~~impaired, or altered without consent,~~ impaired or altered a stormwater network (including, without limitation, any overland flow path or watercourse) on their land in breach of a stormwater network rule made under **section 260**, the owner or occupier must—

- (i) carry out remedial work to eliminate the impairment or ~~restore~~ reinstate the stormwater network; or
 - (ii) meet the reasonable costs that the water services entity incurs in carrying out remedial work to eliminate the impairment or ~~restore~~ reinstate the stormwater network to the state it was in before its impairment or alteration; or
 - (b) otherwise breached a stormwater network rule made under **section 260**, the owner or occupier must meet the reasonable costs of eliminating any impairment to a stormwater network that the breach has caused.
- (2A) Nothing in this Act requires the owner or occupier to eliminate an impairment or alteration to a stormwater network on their land that is caused by—
- (a) an act or omission of another person in respect of other land; or
 - (b) a breach of any rules made under this Act by another person in respect of other land; or
 - (c) a natural disaster.
- (3) The owner of a road or level crossing on, along, over, across, or under which any existing water services infrastructure is constructed or placed is not required to maintain the infrastructure.
- (4) Nothing in **subsections (1AAA) to (2A)** limits or overrides any new or existing legally binding agreement that provides for the owner or occupier to be responsible for any management or maintenance.

Compare: 1992 No 122 s 22A

220A Remedial work must meet certain requirements

- (1) Remedial work carried out under **section 220** in respect of a stormwater network (including, without limitation, carried out in respect of any overland flow path or watercourse) must—
- (a) be carried out as soon as is reasonably practicable; and
 - (b) ~~comply with—~~
 - (i) ~~the standards considered appropriate for that work at the time it was carried out; and~~
 - (ii) ~~any relevant requirements specified in stormwater network rules made under~~ **section 260**.
 - (b) comply with any relevant restrictions, requirements, conditions, standards, authorisations, or prohibitions in a stormwater network rule.
- (2) If an owner or occupier of land carries out work to eliminate an impairment to, or to ~~restore~~ reinstate, a stormwater network on their land under **section 220(3)(2)(a)(i)** and the relevant water services entity has determined that the work fails to comply with **subsection (1)(b)**,—

- (a) the relevant water services entity must carry out the remedial work needed to comply with **subsection (1)(b)** as soon as is reasonably practicable; and
- (b) the owner or occupier must meet the reasonable costs that the water services entity incurs in carrying out that remedial work.

Compare: 2023 No 1 s 76(2)(a)

220B ~~Water services entities are not responsible for managing and maintaining certain things~~

- (1) ~~Despite anything in **sections 220 and 220A**, a water services entity is not responsible for managing and maintaining—~~
 - (a) ~~a stormwater network of a private stormwater network owner or operator (as defined in **section 252B**); or~~
 - (b) ~~any watercourse on private land that is not part of the stormwater network of a water services entity.~~
- (2) ~~For the purposes of **sections 220 and 220A**, owner or occupier excludes a water services entity.~~

Moving water services infrastructure

221 Owner or occupier of land may require water services infrastructure to be moved

- (1) This section applies in relation to any land or buildings on, over, or under which water services infrastructure has been constructed or placed.
- (2) The owner or occupier of the land or buildings may, at the owner or occupier's own expense, move the water services infrastructure and re-lay, reconstruct, or replace the water services infrastructure, subject to—
 - (a) the work being lawfully carried out; and
 - (b) compliance with any reasonable conditions imposed by the water services entity.
- (3) However, no water services infrastructure may be moved, re-laid, reconstructed, or replaced under **subsection (2)** without the consent of the water services entity, which must not be unreasonably withheld.
- (4) Before the owner or occupier of the land carries out work under this section, the owner or occupier must notify the water services entity of their intention to carry out the work.
- (5) A notice under **subsection (4)** must—
 - (a) be in writing; and
 - (b) be given at least 30 working days before the proposed work is to start; and

- (c) specify the current location of the water services infrastructure and the proposed location to which it is to be moved.
- (6) A water services entity that receives a notice under **subsection (4)** must, before the date on which the proposed work is to start, provide a written response to the notice—
 - (a) advising whether it consents to the work; and
 - (b) stating any reasonable conditions it wishes to specify for the work.

Compare: 1992 No 122 s 35; 1992 No 124 s 36

222 Road owner may require water services infrastructure to be moved

- (1) This section applies in relation to any water services infrastructure constructed or placed on, along, over, across, or under any road.
- (2) The road owner or other person who has jurisdiction over the road may, by notice, require the water services entity to move or otherwise alter the position of the water services infrastructure.
- (3) A notice under **subsection (2)** must—
 - (a) be in writing; and
 - (b) be given at least 15 working days before the work is required to start; and
 - (c) specify the current location or position of the water services infrastructure and the proposed location to which it is to be moved.
- (4) A water services entity that receives a notice under **subsection (2)** may—
 - (a) carry out the work; or
 - (b) authorise the road owner or other person who has jurisdiction over the road (or a person acting on their behalf) to carry out the work.
- (5) The reasonable cost of all work required to be done under this section must be paid by the person who gave the notice under **subsection (2)**.
- (6) If there is a dispute about costs of any work carried out under this section (including a dispute about liability for payment of those costs), the dispute must be determined—
 - (a) by agreement between the parties; or
 - (b) failing that agreement, by arbitration under the Arbitration Act 1996.

Compare: 1992 No 122 s 33

Information and approval

222A Requirement to provide information about location of water services infrastructure

- (1) A water services entity must inform each local authority and building consent authority in its service area about the location of any water services infrastructure that the water services entity owns or operates in its service area.
- (2) The information must include a map showing the location of the infrastructure.
- (3) A person may request a copy of the map from the water services entity.
- (4) If a request for a copy of the map is made, the water services entity must provide the copy within 15 working days of receiving the request.
- (5) The water services entity must update the information provided under this section annually.

222B Requirement to obtain approval before carrying out building work over or near water services infrastructure

- (1) This section applies to a person who proposes to carry out building work over or near water services infrastructure.
- (2) The person must apply to the relevant water services entity for approval to carry out the building work at least 30 days before the proposed building work is to start.
- (2A) An application under **subsection (2)** must—
 - (a) be in the form approved by the chief executive of the water services entity for the purpose; and
 - (b) be accompanied by the application fee (if any) set by the chief executive of the water services entity.
- (3) The water services entity must, within 30 working days of receiving an application, notify the applicant, the relevant local authority, and the relevant building consent authority of its decision in writing.
- (4) The water services entity may—
 - (a) approve the application subject to any conditions relating to the carrying out of the building work that it considers necessary to protect or provide for the operation and maintenance of the water services infrastructure, including (without limitation) the relocation of the water services infrastructure if practical to do so;
 - (b) decline the application if it reasonably considers that no other practical alternative is available.
- (5) The water services entity may recover the reasonable costs of any work carried out by or on or behalf of the water services entity to modify or shift water services infrastructure to provide for the building work.

*Miscellaneous***223 Prohibition on charging for access to certain water services infrastructure**

- (1) A water services entity is not required to pay rent to the Crown in relation to any land in a harbour on, over, or under which water services infrastructure has been constructed or placed.
- (2) A water services entity is not required to pay rent to a road owner, any other person who has jurisdiction over a road, or a utility operator in relation to any road on, along, over, across, or under which water services infrastructure has been constructed or placed.

Compare: 2009 No 32 s 59

224 Requirements for easements over certain land

- (1) This section applies if a water services entity is seeking to create an easement on the record of title in relation to land on which a marae or an urupā is situated or that is a Maori reservation.
- (2) Sections 315 to 326 of Te Ture Whenua Maori Act 1993 apply, with any necessary modifications, to the creation of the easement as if it were land to which Part 14 of that Act applies.

225 Land that may be needed for settlement of Treaty of Waitangi claims

- (1) This section applies if a water services entity intends to purchase any Crown-owned land that is not subject to a Treaty settlement deed for the purposes of constructing or placing water services infrastructure.
- (2) Before purchasing the land, the water services entity must consult the Minister for Treaty of Waitangi Negotiations for the purpose of considering the Crown's obligation to provide redress by way of Crown-owned land for any future settlements of Treaty of Waitangi claims.

Subpart 5—Appeals

226 Appeal to District Court*Appeal by water services entity*

- (1) A water services entity may appeal to the District Court against all or any of the conditions on carrying out work imposed—
 - (a) by an owner of land under **section 200(3)**;
 - (b) by a road owner, other person who has jurisdiction over the road, or a utility operator under **section 211(2)**.

Appeal by owner or occupier of land

- (2) An owner or occupier of land may appeal to the District Court against—
 - (aaa) a determination made by a water services entity under **section 203(3)**;

- (a) a refusal of a water services entity to consent to the owner or occupier moving water services infrastructure under **section 221**;
- (b) all or any of the conditions on carrying out work imposed by a water services entity under **section 222B(4)**.

Provisions relating to appeal

- (3) An appeal under this section must be made by giving notice of appeal—
 - (a) not later than 15 working days after the date of notification of the determination, refusal, or conditions imposed (as the case may be); or
 - (b) within any further time that the District Court may allow.
- (4) ~~The District Court may,—~~
 - (a) ~~in relation to an appeal made under **subsection (1)**, do 1 or more of the following:~~
 - (i) ~~confirm, modify, or cancel all or any of the conditions imposed;~~
 - (ii) ~~impose new conditions;~~
 - (b) ~~in relation to an appeal made under **subsection (2)**, confirm or reverse the decision.~~
- (4) The District Court may, in relation to an appeal made under **subsection (1)**, do 1 or more of the following:
 - (a) confirm, modify, or cancel all or any of the conditions imposed;
 - (b) impose new conditions.
- (5) The District Court may, in relation to an appeal made under **subsection (2)(aaa) or (a)**, confirm or reverse the determination or decision.
- (6) The District Court may in relation to an appeal made under **subsection (2)(b)**—
 - (a) confirm, modify, or cancel all or any of the conditions imposed;
 - (b) impose new conditions.

Compare: 2001 No 103 s 141

227 Appeals to High Court

- (1) A person may appeal to the High Court on a question of law only in relation to—
 - (a) an order made by the District Court under **section 204**; or
 - (b) a decision of the District Court made under **section 226**.
- (2) An appeal must be made by giving notice of appeal—
 - (a) not later than 20 working days after the date on which the order was made or notice of the decision was communicated to the appellant; or
 - (b) within any further time that the High Court allows.

- (3) However, nothing in this section affects the right of any person to apply for judicial review.

Compare: 2021 No 36 s 95

228 Appeals to Court of Appeal or Supreme Court

- (1) A party to an appeal under **section 227** may appeal to the Court of Appeal or the Supreme Court against any determination of the High Court on a question of law arising in that appeal, with the leave of the court appealed to.
- (2) The Court of Appeal or the Supreme Court hearing an appeal under this section has the same power to adjudicate on the appeal as the High Court had.
- (3) **Subsection (1)** is subject to section 75 of the Senior Courts Act 2016 (which provides that the Supreme Court must not give leave to appeal directly to it against a decision made in a court other than the Court of Appeal unless it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court).

Compare: 2021 No 36 s 96

229 Appeal to Maori Land Court

- (1) A water services entity may appeal to the Maori Land Court against a refusal to grant consent for the water services entity to carry out any work described in **section 200(1)** in respect of any Maori land.
- (2) An appeal must be made by giving notice of appeal—
- (a) not later than 15 working days after the date on which the notice of the decision was communicated to the water services entity; or
 - (b) within any further time that the Maori Land Court allows.
- (3) The Maori Land Court may confirm or set aside the decision.

230 Appeal to Maori Appellate Court

- (1) A person may appeal to the Maori Appellate Court on a question of law only in relation to a decision of the Maori Land Court made under **section 229**.
- (2) An appeal must be made by giving notice of appeal—
- (a) not later than 20 working days after the date on which the order was made or notice of the decision was communicated to the appellant; or
 - (b) within any further time that the Maori Appellate Court allows.
- (3) However, nothing in this section affects the right of any person to apply for judicial review.

Part 7 Controlled drinking water catchments

231 Board may designate controlled drinking water catchment areas

- (1) The board of a water services entity may, by notice, designate the following to be a **controlled drinking water catchment area** for the purposes of this sub-part:
 - (a) a geographic area that surrounds surface water;
 - (b) a groundwater catchment from which drinking water is abstracted.
- (2) A designation under **subsection (1)** may be made only if—
 - (a) the water services entity owns or has long-term control of the land to which the designation relates; or
 - (b) the owner of the land to which the designation relates agrees to the designation.
- (3) A notice made under **subsection (1)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

232 Board may issue controlled drinking water catchment management plan

- (1) The board of a water services entity may, by notice, issue a controlled drinking water catchment management plan in relation to 1 or more controlled drinking water catchment areas for the purposes of managing, controlling, monitoring, or eliminating risks or hazards to a source of drinking water in the area.
- (2) A plan issued under **subsection (1)**—
 - (a) must identify the controlled drinking water catchment area (or areas) to which the plan applies; and
 - (b) may set out prohibitions, restrictions, or requirements relating to—
 - (i) access to the area;
 - (ii) activities that may be undertaken in the area, including the use of water in the area; and
 - (c) may set out prohibitions or restrictions relating to contamination of water in the area; and
 - (d) may specify activities that are allowed, or subject to restrictions or prohibitions, in a controlled catchment management area under a permit issued by the chief executive of the water services entity.
- (3) If the controlled drinking water catchment management plan relates to land that is not owned by, or under the long-term control of, the water services entity, the owner of the land must agree for the plan to apply to the land.
- (4) Despite **subsection (3)**, if the plan applies to 2 or more controlled drinking water catchment areas and an owner of land in the catchment area does not

agree for the plan to apply to their land, the plan applies only in respect of land in the catchment areas whose owners have agreed for the plan to apply.

- (6A) The board of the water services entity must review its controlled drinking water catchment management plan in accordance with **section 466**.
- (7) A notice made under **subsection (1)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

232A Chief executive of water services entity may issue permit relating to activities in controlled drinking water catchment area

- (1) The chief executive of a water services entity may issue permits containing prohibitions, restrictions, or requirements in relation to activities in a controlled drinking water catchment area.
- (2) A permit must give effect to any relevant requirements relating to permits set out in a controlled drinking water catchment management plan issued under **section 232**.

232B Engagement on controlled drinking water catchment management plan

- (1) The board of a water services entity must, when developing (or considering changes to) a controlled drinking water catchment management plan, engage with interested persons.
- (2) In conducting the engagement, the board of a water services entity must—
- (a) comply with the requirements set out in **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.

Part 8

Small mixed-use rural water supplies

233 Rural supply plans Requirement to prepare rural supply plan for small mixed-use rural water supplies

- (1) A water services entity must prepare a rural supply plan for each small mixed-use rural water supply in its service area.
- (2) The chief executive of a water services entity must publish a rural supply plan prepared under this section on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible.

234 Purpose of rural supply plan

The purpose of a rural supply plan is to—

- (a) set out the roles and responsibilities relating to the small mixed-use rural water supply; and

- (b) provide transparency to consumers about how the water services entity will operate the supply; and
- (c) provide the water services entity with a means to engage with consumers about supply arrangements.

235 Contents of rural supply plan

A rural supply plan must, in relation to a small mixed-use rural water supply,—

- (a) define the geographic area of the supply; and
- (b) set out how the water services entity will operate the supply with users of the supply, including the arrangements where the infrastructure relating to the supply is on land owned by its users; and
- (c) set out any details relating to ongoing maintenance or upgrade of the supply arrangements; and
- (d) set out any committee or other arrangements for making decisions about the operation of the supply by the water services entity and representatives of users of the supply; and
- (e) set out the roles and responsibilities under the drinking water safety plan for the supply.

236 Engagement on rural supply plans

- (1) The board of a water services entity must, when developing (or considering changes to) its rural supply plan, engage with interested persons.
- (2) In conducting the engagement, the board of a water services entity must—
 - (a) comply with **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.

237 Duties of chief executive of water services entity relating to rural supply plan

The chief executive of a water services entity must—

- (a) give effect to the rural supply plan when the chief executive performs or exercises any relevant function or power of the chief executive; and
- (b) take the rural supply plan into account when making or reviewing its asset management plan, funding and pricing plan, or infrastructure strategy.

Compare: 2021 No 36 s 136(7)

238 Review of rural supply plan

The board of a water services entity must review a rural supply plan at least every 3 years.

Compare: 2021 No 36 s 136(2)

Part 9**Service provider and water services assessment obligations****Subpart 1—Water services assessments****245 Access to water services must be assessed**

- (1) The board of a water services entity must inform itself about the access that each community and population within the territorial authority district boundaries in its service area has to water services by undertaking an assessment of those services under this section (a **water services assessment**).
- (2) A water services assessment must—
 - (a) identify each community and population within territorial authority district boundaries that receives the services; and
 - (b) describe the characteristics of those communities and populations and the nature of the services that they currently receive; and
 - (c) assess the extent to which those communities and populations are currently receiving, and will continue to receive, sufficient services, including a consideration of—
 - (i) their current access; and
 - (ii) any reasonably foreseeable risks to their future access; and
 - (iii) their current and estimated future demands for the services; and
 - (d) describe the safety and quality of drinking water currently being supplied to the communities and the populations within territorial authority district boundaries in its service area, using information collected and made available by Taumata Arowai and any other organisations that the water services entity considers relevant; and
 - (e) assess the adequacy of water services available to communities and populations within territorial authority district boundaries within its service area from a public health perspective and in light of—
 - (i) the health risks to those communities and populations arising from any absence of, or deficiency in, those services; and
 - (ii) the quality of those services currently available to those communities and populations; and
 - (iii) the current and estimated future demands for any of those services; and

- (iv) the actual or potential consequences of stormwater and sewage discharges within its service area; and
- (f) identify and assess any other public health risks and any environmental risks relating to the services supplied to communities and populations within territorial authority district boundaries; and
- (g) take account of—
 - (i) the diversity of the communities and populations within the water services entity’s service area, their current and future interests, and the likely impact on their well-being; and
 - (ii) the equity of provision of water services, including (without limitation) for Māori; and
- (h) specify the assumptions regarding current and estimated future demands for water services and how they compare with the relevant assumptions specified in the water services entity’s asset management plan; and
- (i) based on the water services assessment under **paragraphs (b) to (h)**,—
 - (i) assess the consequences if the communities or the populations within territorial authority district boundaries of its service area lose access to the services in the future, or are provided with services that are deficient in any way, including the implications for their public health; and
 - (ia) consider communities or populations that might have deficient water services or no services; and
 - (ii) outline a plan that provides for the ongoing access of those communities and populations to the services; and
 - (iii) have regard to the water services entity’s asset management plan and infrastructure strategy.
- (3) A water services assessment,—
 - (a) in relation to water supply, does not include assessments in relation to domestic self-suppliers:
 - (b) in relation to wastewater, does not include assessments in relation to properties with on-site wastewater services arrangements (for example, septic tanks).

Compare: 2002 No 84 ss 124, 125, 128(2)

246 When water services assessments must be conducted

- (1) The board of a water services entity—
 - (aaa) must conduct its first water services assessment before **1 July 2029**:
 - (a) must, after it completes its first water services assessment, conduct a water services assessment at least once every 3 years (which may be carried out when other assessments are carried out or at different times):

- (b) may conduct a water services assessment at an earlier date (if the water services entity is made aware of concerns about the access that a community or population within territorial authority district boundaries has to drinking water, wastewater services, or stormwater services).
- (2) The board must provide the means for any person to alert the water services entity at any time of concerns about access to drinking water, wastewater services, and stormwater services for a community or population within territorial authority district boundaries in its service area.

Compare: 2002 No 84 s 125

247 Additional considerations for water services assessments

- (1) The board of a water services entity—
 - (a) must invite interested persons in the service area of the water services entity, and the water services entity’s consumer forum, to participate in the water services assessment; and
 - (b) must take the water services assessment into account in its asset management plans, funding and pricing plans, and stormwater management plans.
- (1A) In complying with **subsection (1)**, the board of a water services entity must—
 - (a) comply with **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.
- (2) For the purposes of this section and **sections 245 and 246**,—
 - (a) **water services assessment** includes—
 - (i) assessing a service for the first time; and
 - (ii) reviewing and updating an existing assessment:
 - (b) the scope of each water services assessment must include—
 - (i) communities and the population within territorial authority district boundaries that receive drinking water, wastewater services, and stormwater services from the water services entity or other service provider; and
 - (ii) communities and populations within territorial authority district boundaries in its service area that do not receive water supply services from the water services entity; and
 - (iii) all types of water supply arrangements, including communities and populations (and households within those communities and populations) that do not receive water supply services supplied by network reticulation:

- (c) water services entities need not consider within a water services assessment water supply services that are owned or operated by the Crown;
- (d) a water services assessment may be carried out by the water services entity or undertaken on its behalf (whether in whole or in part) by another appropriate organisation, including—
 - (i) an iwi or Māori organisation;
 - (ii) a relevant territorial authority or regional council.

Compare: 2002 No 84 ss 14(1)(c), 125

248 Regional representative group review of proposed water services assessments

Before finalising a water services assessment, the board of a water services entity must—

- (a) provide its regional representative group with a copy of the proposed water services assessment; and
- (b) give the group 2 months to review and comment on the proposed water services assessment; and
- (c) take into account the group's comments (if any) before finalising the water services assessment.

249 Requirements following water services assessments

- (1) On completion of a water services assessment, the chief executive of a water services entity must—
 - (a) make the water services assessment available to the public on an Internet site maintained by, or on behalf of, the water services entity; and
 - (b) provide Taumata Arowai with a copy of the water services assessment in electronic form.
- (2) The chief executive must also notify Taumata Arowai about—
 - (a) any drinking water suppliers that are, or appear to be, failing to meet their statutory obligations or are at risk of doing so; and
 - (b) any other matters of concern arising from the water services assessment, including ~~potential~~ risks to communities within the water services entity's service area affected by the water services assessment that relate to—
 - (i) any absence of, or deficiency in, a water supply service; or
 - (ii) a drinking water supplier that is at risk of ceasing to provide a service.

Compare: 2002 No 84 s 126

250 Duty to ensure communities have access to drinking water if existing supplier faces significant problems

- (1) **Subsection (2)** applies if—
- (a) a water services entity's or Taumata Arowai's assessment of drinking water is that the supplier (not being the water services entity) is facing a significant problem or potential problem with its drinking water, and the water services entity has notified Taumata Arowai of those concerns and discussed them with Taumata Arowai; or
 - (b) Taumata Arowai requires the water services entity to take action under **subsection (2)**.
- (2) If this subsection applies, a water services entity must—
- (a) work collaboratively with the supplier, the consumers of the supply, and Taumata Arowai to identify, as the circumstances allow and within a time frame determined by Taumata Arowai, 1 or more of the following:
 - (i) an immediate solution to the problem:
 - (ii) a temporary solution to the problem:
 - (iii) a long-term, permanent solution to the problem; and
 - (b) ensure that drinking water is provided to the affected consumers on a temporary or permanent basis if—
 - (i) the supplier is unable to continue to provide a service that meets the statutory requirements; and
 - (ii) an alternative solution is not readily available, or cannot be agreed by the parties involved within the time frame determined by Taumata Arowai.
- (3) For the purposes of this section, a **significant problem or potential problem** includes where—
- (a) a drinking water supplier has persistently failed to comply with legislative requirements; or
 - (b) there is a serious risk to public health relating to the drinking water provided by a drinking water supplier; or
 - (c) a drinking water supplier has ceased to supply drinking water, or is, in Taumata Arowai's opinion, at significant risk of ceasing to supply drinking water.
- (4) If a water services entity is obliged to ensure access to drinking water, the water services entity may consider a range of options to fulfil its obligation, including—
- (a) taking over the management and operations of the drinking water supplier, on a temporary or permanent basis:

- (b) ensuring that drinking water continues to be provided through alternative supply arrangements.
- (5) However, nothing in **subsection (4)** obliges the water services entity to provide the supply via a reticulated network.
- (6) If a water services entity takes over the management and operations of a drinking water supplier on a permanent basis, the water services entity, Taumata Arowai, the former supplier, and (if relevant) the affected consumers must work together to determine how to deal with—
 - (a) any assets and liabilities of the former supplier; and
 - (b) any legal or other issues that may affect the water services entity’s ability to manage and operate the supplier, such as access to the land on, or beneath which, assets are situated; and
 - (c) how the water services entity might be compensated for the costs incurred in taking over the responsibilities of the former supplier.
- (7) A water services entity may charge for any drinking water that is provided to affected consumers, and may recover its costs from the previous supplier, but, when making decisions about future charges and funding arrangements, the water services entity must—
 - (a) take reasonable steps to ascertain and consider the financial circumstances facing the affected consumers; and
 - (b) consider the range of funding sources provided for in its ~~revenue and financing policy~~ funding and pricing plan; and
 - (c) on request, demonstrate that it has considered those factors.
- (8) *See also* subpart 12 of Part 2 of the Water Services Act 2021 (statutory management and transfer of operations).

Compare: 2002 No 84 s 127

Fire hydrant provisions

251 Fire hydrants

- (1) A water services entity must, in every part of the service area in which it supplies water,—
 - (a) fix fire hydrants in the main pipes of the water supply network at the most convenient places for extinguishing any fire as the water services entity determines—
 - (i) in consultation with the relevant territorial authority; and
 - (ii) with the approval of Fire and Emergency New Zealand; and
 - (b) keep those fire hydrants in effective working order.
- (2) Fire hydrants must be fixed at the distances from each other that the water services entity decides with the approval of Fire and Emergency New Zealand.

- (3) The water services entity must put near each fire hydrant a conspicuous notice or mark of a kind approved by Fire and Emergency New Zealand showing the location of the hydrant, and that notice may, if the water services entity thinks fit, be put on any building.
- (4) If the water services entity is dissatisfied with any decision of Fire and Emergency New Zealand under this section, it may, within 1 month after receiving notice of the decision, appeal against that decision to the District Court.
- (5) The decision of the District Court in determination of the appeal under this section is final.

Compare: 1974 No 66 s 647

252 Pipes to be kept charged with water

- (1) A water services entity must at all times keep charged with water the pipes to which fire hydrants are affixed to by the water services entity under **section 251**.
- (2) **Subsection (1)** does not apply—
 - (a) in the case of an unusual drought, an accident, or an interruption or restriction of the water supply;
 - (b) during any necessary repairs, renewals, connections, or inspections of the pipes;
 - (c) in the case of a state of emergency declared under the Civil Defence Emergency Management Act 2002;
 - (d) in the case of a drinking water emergency declared under section 59 of the Water Services Act 2021.
- (3) Subject to the overall requirements of any controller while a state of emergency exists under the Civil Defence Emergency Management Act 2002, the water services entity must allow any person to take and use water from any water supply network for extinguishing fire without any payment for the water.

Compare: 1974 No 66 s 648

Subpart 2—Stormwater provisions

252A Purpose of subpart

The purpose of this subpart is to—

- (a) provide that a water services entity is responsible for managing—
 - (i) stormwater in the urban areas in its service area; and
 - (ii) the effects of stormwater in those areas; and
- (b) provide a framework to—
 - (i) deliver strategic and long-term outcomes for the management of stormwater in urban areas; and

- (ii) enable engagement with the framework; and
- (c) provide, alongside relationship agreements and service-level agreements under **Part 5A**, a framework for co-ordination of agencies with responsibilities relating to stormwater in urban areas; and
- (d) require water services entities to provide comprehensive risk management of stormwater in urban areas; and
- (e) provide Taumata Arowai with oversight of the stormwater management of water services entities.

252B Interpretation

In this subpart, unless the context otherwise requires,—

private stormwater network—

- (a) means the infrastructure owned or operated by, or processes used by, a private stormwater network owner or operator to collect, treat, drain, store, reuse, or discharge stormwater in an urban area that connects or discharges to a stormwater network of a water services entity; and
- (b) includes—
 - (i) an overland flow path;
 - (ii) green water services infrastructure that delivers stormwater water services

private stormwater network owner or operator means a person who—

- (a) owns or operates a private stormwater network in an urban area that connects or discharges to a stormwater network of ~~the~~ a water services entity; and
- (b) is not a public stormwater network owner or operator

public entity means—

- (a) a local authority, council-controlled organisation, or subsidiary of a council-controlled organisation;
- (b) a department;
- (c) the New Zealand Defence Force;
- (ca) a transport corridor manager;
- (d) a person who operates a stormwater network, or any aspect of a stormwater network, for, or on behalf of, an organisation specified in **paragraphs (a) to (c)**

public stormwater network—

- (a) means the infrastructure owned or operated by, or processes used by, a public stormwater network owner or operator to collect, treat, drain, store, reuse, or discharge stormwater in an urban area that connects or discharges to a stormwater network of a water services entity; and

- (b) includes—
- (i) an overland flow path:
 - (ii) green water services infrastructure that delivers stormwater water services

public stormwater network owner or operator means a public entity that owns or operates a stormwater network in an urban area that connects or discharges to a stormwater network of ~~the~~ a water services entity.

Stormwater management strategies

252C Stormwater management strategies

- (1) The board of a water services entity must have a stormwater management strategy, that includes—
- (a) a stormwater management plan for all stormwater networks in its service area; and
 - (b) a stormwater risk management plan for all the stormwater networks in its service area, including networks owned or operated by a water services entity, a public entity, or a private stormwater network owner or operator; and
 - (c) any stormwater network rules that apply to ~~all~~ the stormwater networks in its service area, including—
 - (i) networks owned or operated by a water services entity; and
 - (ii) networks owned or operated by a public entity; and
 - (iii) networks owned or operated by a private stormwater network owner or operator.
- (2) ~~The~~ Before issuing or amending its stormwater management strategy, the board of ~~a~~ the water services entity must—
- (a) provide its proposed or revised stormwater management strategy to Taumata Arowai; and
 - (b) develop its final stormwater management strategy in a manner that gives effect to any comments that Taumata Arowai makes on the proposed or revised stormwater management strategy; and
 - (c) provide its final stormwater management strategy to Taumata Arowai on or before **1 July 2028**; and
 - (d) give effect to its final stormwater management strategy; and
 - (e) take its final stormwater management strategy into account when making or reviewing its—
 - (i) asset management plan:
 - (ii) infrastructure strategy:

(iii) funding and pricing plan.

(2A) The chief executive of the water services entity must publish the final stormwater management strategy on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible.

(3) The territorial authorities, regional councils, and transport corridor managers involved in or affected by the stormwater management strategy must work with the water services entity to develop the strategy.

(4) The board of a water services entity must—

- (a) review its stormwater management strategy at least once every 5 years;
- (b) provide Taumata Arowai with its updated stormwater management strategy as soon as practicable following the review.

252D Engagement on stormwater management strategy

(1) The board of a water services entity must, when proposing or reviewing its stormwater management strategy, engage with interested persons.

(2) In conducting the engagement, the board of a water services entity must—

- (a) comply with the requirements set out in **section 461**; and
- (b) be guided and informed by the principles set out in **section 462**; and
- (c) prepare and publish a report on the engagement in accordance with **section 465**.

Stormwater management plans

253 Stormwater management plans

The board of a water services entity must prepare a stormwater management plan for all stormwater networks in its service area.

Compare: 2021 No 36 s 139(1)

254 Purpose of stormwater management plans

The purpose of a stormwater management plan is to provide a water services entity with—

- (a) a long-term strategic framework for managing its stormwater networks; and
- (b) comprehensive information about its stormwater networks and any regulatory requirements that apply to them; and
- (c) a means to engage with others on the management of its stormwater networks.

256 Contents of stormwater management plans

(1) A stormwater management plan must—

Outcomes

- (a) state the outcomes that the water services entity is intending to achieve and the means to monitor progress against those outcomes; and

Information

- (b) identify the geographical zones (on a catchment-level basis) and set out the areas that each stormwater network serves; and
- (c) provide the relevant details of each stormwater network in the service area of the water services entity, including maps of each stormwater network; and
- (d) provide the relevant details of each stormwater network that relates to a transport corridor; and
- (e) specify any statutory requirements that relate to the stormwater networks (for example, stormwater environmental performance standards or conditions in resource consents); and
- (ea) provide the relevant details about any wastewater networks that are part of, or related to, a stormwater network; and
- (eb) provide the relevant details of any community that a stormwater network of the water services entity serves (including, without limitation, areas of urban development or growth); and

Te Mana o te Wai

- (f) state how the stormwater management plan relates to any actions the water services entity is to take (consistent with its plan under section 144(2)) as part of its response to a Te Mana o te Wai statement for water services; and

Roles and responsibilities

- (g) identify the roles and responsibilities relating to managing stormwater networks in the water services entity's service area (for example, local authorities or private stormwater network owners or operators).
- (2) A stormwater management plan may—
- (a) include any other matters that the water services entity considers appropriate;
 - (b) relate to 1 stormwater network or to multiple stormwater networks.

Stormwater network risk management plans

259A Stormwater network risk management plans

The board of a water services entity must prepare a stormwater network risk management plan for all stormwater networks in its service area, including all stormwater networks of—

- (a) every private stormwater network owner or operator:

- (b) every public stormwater network owner or operator.

259B Contents of stormwater network risk management plan

A stormwater network risk management plan must—

- (a) identify any hazards that relate to a stormwater network, including (without limitation) emerging or potential hazards; and
- (b) assess any risks that are associated with those hazards; and
- (c) identify how those risks are to be managed, controlled, monitored, or eliminated.

Stormwater network rules

260 Board may make stormwater network rules

- (1) The board of a water services entity may make stormwater network rules that do all or any of the following:
- (b) set restrictions, requirements, conditions, standards, authorisations, or prohibitions relating to—
- (i) discharges to a stormwater network:
- (ii) the volume of stormwater in a stormwater network:
- (iii) risks and hazards identified in a stormwater network risk management plan relating to—
- (A) activities in the service area of a water services entity:
- (B) overland flow paths and watercourses in the service area of an entity:
- (c) set notification requirements (for example, notification of hazards or risks relating to a stormwater network).
- (1A) Rules made under this section must specify the geographic area in the water services entity's service area to which the rules apply.
- (2) Rules made under this section relating to works on or near, or relating to the maintenance of, overland flow paths of the stormwater network may not conflict with or restrict the rights and obligations of road owners under **section 221 or 222** or other utility operators under the Telecommunications Act 2001, the Electricity Act 1992, or the Gas Act 1992.
- (2AA) Rules made under this section must not be inconsistent with—
- (a) the national planning framework or a plan made under the **Natural and Built Environment Act 2022**; or
- (b) any relevant regional spatial strategy made for a region under the **Spatial Planning Act 2022**.

- (2A) Rules made under this section may not require an owner or occupier of land to eliminate an impairment of a stormwater network (including, without limitation, any overland flow path or watercourse) on their land that is caused by—
- (a) an act or omission of another person in respect of other land; or
 - (b) a breach of a rule made under this Act by another person in respect of other land; or
 - (c) a natural disaster.
- (4) Stormwater network rules are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

261 Stormwater network rules may apply to various networks

Stormwater network rules may apply to a part, or the whole, of 1 or more of the following:

- (a) the stormwater networks of the water services entity;
- (b) subject to **paragraph (d)**, the networks of a public stormwater network owner or operator;
- (c) the networks of a private stormwater network owner or operator;
- (d) the networks of a transport corridor manager that has agreed to the stormwater network rules in writing;
- (e) ~~the stormwater networks (including, without limitation, any overland flow path or watercourse) on land that a water services entity does not own.~~

262 Stormwater management of overland flow paths and watercourses

- (1) If a stormwater network risk management plan identifies a hazard or risk relating to an overland flow path or a watercourse on land that is not owned by a water services entity, the water services entity must work collaboratively with the owner or occupier of the land to implement a solution to ensure the risk is managed, controlled, monitored, or eliminated.
- (2) If a collaborative approach cannot be agreed with the owner or occupier of the land under **subsection (1)** in a reasonable time frame, or the owner or occupier of the land is unable to implement a solution to address the risk identified in the stormwater network risk management plan, the water services entity must implement a solution to ensure the risk is managed, controlled, monitored, or eliminated.
- (3) Despite anything in **subsection (1) or (2)**, any obligations imposed by a stormwater network rule made under **section 260(1)(b)** continue to apply to an owner or occupier of land.
- (4) However, nothing in this section overrides the responsibility of a water services entity under **section 220** to manage and maintain the water services infra-

structure in its service area (including, without limitation, any overland flow path or watercourse on land that the water services entity does not own).

Stormwater environmental performance standards

264 Requirement to give effect to stormwater environmental performance standards

If the board of a water services entity makes stormwater network rules under **section 260** relating to a stormwater network, the rules must give effect to any stormwater environmental performance standards made under **section 139A** of the Water Services Act 2021.

Compare: 2002 No 84 s 146(2)

Subpart 3—Trade waste provisions

Trade waste permits

266 Certain persons may apply for trade waste permits

- (1) A person may apply to the chief executive of a water services entity for a trade waste permit if the person—
 - (a) owns or occupies trade waste premises in the water services entity’s service area; or
 - (b) is a trade waste carrier that carries out work in the water services entity’s service area.
- (2) The application must be made in the manner and in the form that the chief executive of the water services entity specifies.

267 Chief executive of water services entity may issue trade waste permit

- (1) The chief executive of a water services entity may issue a trade waste permit only to a person who may apply for a trade waste permit.
- (2) The chief executive may specify any requirements, conditions, and limits in a trade waste permit that the chief executive considers appropriate for the person to comply with in the circumstances, including (without limitation) 1 or more of the following:
 - (a) requirements relating to the storage, handling, treatment, or discharge of trade waste:
 - (b) notification requirements (for example, notification requirements relating to unintended or accidental discharge of trade waste, whether into a wastewater network, a stormwater network, or the environment):
 - (c) volumetric requirements, conditions, or limits:
 - (d) contaminant requirements, conditions, or limits:
 - (e) treatment requirements or conditions:

- (f) measurement or monitoring requirements:
 - (g) laboratory testing requirements:
 - (h) qualification, training, or supervision requirements:
 - (i) unique identifiers (for example, a code that enables an entity to identify particular trade waste premises or a vehicle used to transport trade waste):
 - (j) record-keeping, audit, and inspection requirements.
- (3) A trade waste permit must give effect to any relevant wastewater environmental performance standard made under section 138 of the Water Services Act 2021.

268 Persons may discharge trade waste into wastewater networks only if complying with trade waste permits

A person may discharge trade waste into a wastewater network only if the person complies with every requirement, condition, and limit specified in the relevant trade waste permit.

Trade waste plans

269 Board must have trade waste plan

- (1) The board of a water services entity must—
- (a) have a trade waste plan that sets out the approach that the water services entity is to take to regulate—
 - (i) trade waste in its service area; and
 - (ii) the discharge of trade waste into its wastewater networks; and
 - (b) consider any relevant building code made under the Building Act 2004 when making a trade waste plan.
- (2) The purpose of the trade waste plan is to provide transparency in relation to the matters specified in **section 270**.
- (4) A trade waste plan made under this Act is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

270 Contents of trade waste plans

- (1) A trade waste plan must specify—
- (a) which activities will be allowed under a permit; and
 - (b) which activities will be subject to restrictions under a permit; and
 - (c) any activities that will be prohibited under a permit; and
 - (d) the water services entity's intended approach—

- (i) to issuing permits for trade waste over a 5-year period, including the approach to classes of trade waste, trade waste premises, and trade waste carriers:
 - (ii) to determining the requirements, conditions, and limits that are to apply to different classes of trade waste under trade waste permits:
 - (iii) to determining the qualification, training, and supervision requirements that are to apply to persons who are granted trade waste permits:
 - (iv) to determining the considerations that are to apply when the water services entity sets fees or charges in relation to trade waste permits.
- (2) A trade waste plan may specify the classes of waste or material that are not trade waste.
- (3) A person who holds a trade waste permit may, at any time, request a review of, and ask for changes to, the trade waste permit.
- Compare: 2021 No 36 s 136(6)

271 Engagement on trade waste plans

- (1) The board of a water services entity must, when developing (or considering changes to) its trade waste plan, engage with interested persons.
- (2) In conducting the engagement, the board of a water services entity must—
- (a) comply with the requirements set out in **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.

272 Chief executive of water services entity must give effect to trade waste plans

The chief executive of a water services entity must give effect to the trade waste plan of the water services entity when the chief executive performs or exercises any relevant function or power of the chief executive.

Compare: 2021 No 36 s 136(7)

273 Review of trade waste plan

The board of a water services entity must review its trade waste plan in accordance with **section 466**.

Compare: 2021 No 36 s 136(2), (3)

Subpart 4—Water supply and wastewater services rules

274 Board may make water supply and wastewater services rules

- (1) The board of a water services entity may make rules relating to water supply and wastewater services, including (without limitation) rules—
 - (a) concerning the use of water supplied to consumers by a water services entity (for example, restrictions on the amount of water that is used or the purpose for which it is used):
 - (b) concerning the disposal of materials or substances into, or discharging to, a wastewater network:
 - (c) concerning equipment or devices relating to water supply or wastewater networks (for example, a backflow prevention device):
 - (d) requiring consumers to notify the water services entity of any significant risk to its water supply or wastewater services (for example, faults, hazards, or any significant change in normal usage).
- (2) The rules may—
 - (a) apply to 1 or more consumers or classes of consumers:
 - (b) be different for each consumer or class of consumers.
- (3) The rules must—
 - (a) specify the geographic area or areas to which the rules apply; and
 - (b) be published as an appendix to the water services entity’s service agreement.
- (4) ~~As soon as practicable after making the rules, the board must—~~
 - (a) ~~take reasonable steps to notify the water services entity’s consumers about how the rules apply to them (for example, whether there is a drought for which water restrictions apply); and~~
 - (b) ~~provide information specifying which rules are published on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible.~~
- (4) As soon as practicable after making the rules, the board must take reasonable steps to notify the water services entity’s consumers about how the rules apply to them (for example, whether there is a drought for which water restrictions apply).
- (5) Rules made under **subsection (1)** with respect to wastewater do not apply to a person who holds a trade waste permit.
- (6) Rules made under **subsection (1)** are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

276 Requirements for water supply and wastewater services rules

Water supply and wastewater services rules made under **section 274**—

(aaa) must give effect to any relevant wastewater environmental performance standard made under section 138 of the Water Services Act 2021; and

- (a) must not be inconsistent with any of the following:
 - (i) section 25 of the Water Services Act 2021;
 - (ii) compliance rules made under section 49 of the Water Services Act 2021;
 - (iii) codes or determinations set or made by the Commission; and
- (b) must not cause a building to become an insanitary building within the meaning of section 123 of the Building Act 2004.

277 Engagement on water supply and wastewater services rules

- (1) The board of a water services entity must, when developing (or considering changes to) water supply and wastewater services rules, engage with interested persons.
- (2) In conducting the engagement, the board of a water services entity must—
 - (a) comply with the requirements set out in **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.

278 Review of rules made under section 274

The board of a water services entity must review the rules that it makes under **section 274** in accordance with **section 466**.

Subpart 5—Service agreements

279 Water services entity must have service agreement with person liable to pay charges

- (1) A water services entity must have a service agreement with each person who is liable to pay charges under **section 321 or 322**.
- (2) Each service agreement—
 - (a) must include the matters specified in **section 280**;
 - (b) must specify any other terms and conditions of the water services to be provided;
 - (c) must comply with the requirements specified in **sections 281 and 282**;
 - (d) may be different for different areas, services, or classes of bill payers;
 - (e) continues to apply until amended or replaced (at which point the amended or replacement agreement applies).
- (3) Service agreements made under **subsection (1)** with respect to—

- (a) water supply do not apply to bill payers who have entered into a commercial bulk supply agreement with the water services entity;
 - (b) wastewater do not apply to a person who holds a trade waste permit.
- (4) Service agreements made under **subsection (1)** apply to consumers—
- (a) on and after the date on which they are published in accordance with **section 282(2)**;
 - (b) on or after the date on which services are supplied and liability for charges commences.

280 Matters that must be specified in service agreements

- (1) Each service agreement—
- (a) must specify—
 - (i) the bill payers, or classes of bill payers, to whom the agreement applies; and
 - (ii) how the water services entity is to communicate with its bill payers; and
 - (iii) the applicable billing and charging processes to be used (including, without limitation, how charges are determined and bills may be paid); and
 - (iv) how the water services entity is to notify its bill payers of any proposed or actual changes to the agreement; and
 - (b) must, in the case of agreements that concern water supply services or waste water services, specify—
 - (i) how the water services entity is to notify its bill payers of any issues or faults; and
 - (ii) how the water services entity is to access the properties of its consumers (for example, the means of notification and the times for reading meters); and
 - (c) may specify any other matters that the water services entity considers appropriate.
- (2) Nothing in **subsection (1)** constitutes a term for the purposes of section 46K(1)(c) of the Fair Trading Act.

281 Engagement on service agreements

- (1) Before entering into, amending, or replacing a service agreement, the board of a water services entity must—
- (a) provide a draft of the agreement (or amendment) to its consumer forum, consumer dispute resolution scheme, and the Commission; and

- (b) provide bill payers, consumers, and communities in the service area of the water service entity with an opportunity to provide feedback on any of those documents by complying with **section 282**; and
 - (c) provide the parties specified in **paragraphs (a) and (b)** with at least 20 working days to review and comment on the draft of the agreement (or amendment); and
 - (d) have regard to any feedback received from the parties specified in **paragraph (a) and (b)**; and
 - (e) notify its bill payers of any changes that are made; and
 - (f) comply with **section 461**; and
 - (g) be guided and informed by the principles set out in **section 462**; and
 - (h) prepare and publish a report on the engagement in accordance with **section 465**.
- (2) **Subsection (1)** does not apply if—
- (a) a proposed change to the agreement is minor or technical;
 - (b) the water services entity is amending the agreement to give effect to changes required under **section 283**.

282 Publication requirements

- (1) A water services entity to which **section 281** applies must ensure that the following documents are published in draft before they are finalised:
- (a) service agreements;
 - (b) amendments to service agreements;
 - (c) replacement service agreements.
- (2) After the documents are finalised, the chief executive of the water services entity must publish the documents on an Internet site maintained by, or on behalf of, the water services entity.

Compare: 2021 No 36 s 205

283 Other requirements

- (1) If the provider of the consumer dispute resolution scheme recommends changes to a water services entity's service agreement, which it may do at any time, the water services entity must consider the recommendation.
- (2) The board of a water services entity must review the water services entity's service agreement in accordance with **section 466**.
- (3) The Commission may review a water services entity's service agreement at any time.
- (4) If the Commission reviews and requires changes to the terms and conditions of a water services entity's service agreement, the water services entity must make those changes.

- (5) A service agreement may not include anything that is inconsistent with any codes or determinations made by the Commission.

284 Application of certain legislation

The following legislation, to the extent that it is relevant, applies to service agreements:

- (a) the Contract and Commercial Law Act 2017, except for the following provisions:
- (i) sections 21 to 32:
 - (ii) sections 35 and 36 to 49:
 - (iii) sections 54 to 57:
 - (iv) sections 341 to 344:
- (b) the Fair Trading Act 1986.

Subpart 6—Rules regulating specified classes of work

285 Board may regulate specified classes of work in certain places

- (1) The board of a water services entity may make rules that regulate, restrict, or prohibit the undertaking of specified classes of work near, under, or above a water supply system, a wastewater network, or a stormwater network.
- (2) The rules may—
- (a) specify the class or classes of work that are subject to the rules:
 - (b) specify the application process that a person must follow to apply for approval to undertake a specified class of work:
 - (c) regulate the way in which the specified class or classes of work may be undertaken:
 - (d) restrict the extent to which the specified class or classes of work may be undertaken:
 - (e) prohibit the undertaking of the class or classes of work.
- (3) Rules made under this section may not conflict with or restrict the rights and obligations of land owners or road owners under **section 221 or 222**, or other utility operators under the Telecommunications Act 2001, the Electricity Act 1992, or the Gas Act 1992.
- (4) As soon as practicable after making rules, the board must take reasonable steps to notify any person undertaking a specified class of work in the service area of the water services entity.
- (5) Rules made under **subsection (1)** are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

286 Engagement on rules that regulate specified classes of work

- (1) The board of a water services entity must, when developing (or considering changes to) rules that regulate specified classes of work, engage with interested persons.
- (2) In conducting the engagement, the board of a water services entity must—
 - (a) comply with the requirements set out in **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.

287 Review of rules that regulate specified classes of work

The board of a water services entity must review its rules that regulate specified classes of work in accordance with **section 466**.

Part 10

Water services infrastructure connections and development code

288 Overview of Part

- (1) This **Part** sets out the approval process by which a person may apply—
 - (a) to be connected to, or disconnected from, water services infrastructure or stormwater services; or
 - (b) to make structural changes that would affect water services infrastructure or stormwater services; or
 - (c) to make changes to the management of the effects of stormwater as part of a development that would affect water services infrastructure.
- (2) The approval process consists of the following 3 stages:
 - (a) stage 1 provides for approval of concept plans:
 - (b) stage 2 provides for approval of engineering plans:
 - (c) stage 3 provides for approval sign-off.

289 Application of 3-stage approval process

- (1) The 3-stage approval process set out in this **Part** applies to a person who wishes to—
 - (a) connect or disconnect a pipe or infrastructure to or from water services infrastructure or stormwater services;
 - (b) make structural changes to premises that would affect the flow rate through an existing connection to water services infrastructure or stormwater services (for example, when a house is replaced with an apartment block or an existing dwelling increases its ground floor area by more than 25 m²);

- (c) make changes to the management of the effects of stormwater as part of a development that would affect water services infrastructure.
- (2) This section does not apply if—
- (a) a land owner or a road owner—
- (i) is moving works under **section 221** without proposing any additional connections to the existing water services infrastructure or stormwater services; or
- (ii) is requiring works to be moved under **section 222**:
- (ab) a land owner—
- (i) is moving works under **section 221**; and
- (ii) is not adding any additional connections to the existing water services infrastructure or stormwater services:
- (b) another utility operator is acting in accordance with a statutory authorisation to move works.

290 Applications may be concurrent

- (1) A person may make an application for any stage or stages of the 3-stage approval process at the same time.
- (2) If, in relation to a given connection or disconnection approval, a person makes applications for more than 1 stage of the approval, a water services entity may consider and approve the stages set out in the applications concurrently.
- (3) When considering a multistage application, a water services entity and the relevant consent authority may take into account the scale and complexity of the relevant development at any stage or stages of the 3-stage approval process.

291 Applications may be amended

- (1) A stage 1, 2, or 3 application may be amended while it is being assessed but, if a proposed amendment is received, the water services entity may take up to a further 10 working days to process the amendment.
- (2) A stage 1, 2, or 3 application may be amended after it is granted but the same process to grant the approval must be undertaken to process the amendment.

292 Obligation to publish water services infrastructure plan

A water services entity must—

- (a) publish a plan of its water services infrastructure that shows the location of the connection points and pipes in the infrastructure on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible; and
- (b) update the plan as soon as practicable after any changes in the location of the connection points or pipes.

293 Form of approvals

If a water services entity decides to grant a stage 1 or 2 approval, it may provide written approval in accordance with the applicable provisions of the ~~Resource Management Act 1991~~ **Natural and Built Environment Act 2022**.

Development code

293A Development code

- (1) The board of a water services entity must, ~~not later than 12 months after the establishment date for the entity,~~ prepare a development code and obtain approval for it from the Commission, in accordance with **sections 294 to 294C and 295**.
- (2) Each development code is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

294 Contents of development code

The board of a water services entity must ensure that—

- (a) the draft development code includes, in the first part, a statement of development principles including (without limitation) principles designed to ensure that—
 - (i) the water services entity is supportive of development within their area; and
 - (ii) the water services entity supports, enables, and is responsive to, planning processes and growth, additional housing, and urban development; but
 - (iii) the water services entity does not act in a way that is inconsistent with ~~any local authority plan~~ long-term plan, plan made under the **Natural and Built Environment Act 2022**, or relevant regional spatial strategy for a region under the **Spatial Planning Act 2022**;
- (b) the draft development code includes, in the second part, provisions in respect of the following water services infrastructure connection or disconnection matters:
 - (i) specifying application forms;
 - (ii) specifying the information that needs to be provided by applicants for the infrastructure connection process;
 - (iii) specifying the criteria for granting extensions to how long approvals are valid for and any further conditions on which an extension may be granted;
 - (iv) specifying applicable engineering design standards;

- (v) specifying who is considered to be a suitably qualified person to carry out certain types of work relating to the infrastructure connection or disconnection:
- (vi) specifying how disputes in relation to infrastructure connections or disconnections are to be resolved independently, and in a manner that is timely, practicable, and cost-effective for the parties:
- (vii) specifying when a network capacity assessment is or is not required:
- (viii) specifying the circumstances in which a water services entity must be given written approval for an activity, or to an application for a resource consent, under the ~~Resource Management Act 1991~~ **Natural and Built Environment Act 2022**:
- (ix) specifying the criteria for approving an application to vest infrastructure in the water services entity:
- (x) providing for any other matter that relates to the infrastructure connection or disconnection process provided for in this Act:
- (xi) providing a process for—
 - (A) prioritising water services connections (in accordance with the sequencing of the stages 1, 2, and 3 processes, as set out in **sections 297 to 315**); and
 - (B) estimating when water services connection or disconnection requirements will be implemented ~~and supplying those time estimates to consumers~~:
- (xii) prescribing the fees for applying for—
 - (A) a stage 1 approval of concept plans:
 - (B) a stage 2 approval of engineering plans:
 - (C) a stage 3 approval sign-off:
 - (D) a multistage approval (which may be different for different combinations of stages).

294A Process for preparing Part 1 of draft development code

- (1) This section applies to the preparation by the board of each water services entity of a draft Part 1 of the entity's development code.
- (2) The board must prepare a draft Part 1 of the water services entity's development code dealing with the matters in **section 294(a)(i) to (iii)**.
- (3) The board must ensure that the draft Part 1 of the code is consistent with the draft Part 1 of the draft codes of other water services entities but, if the draft Part 1 is inconsistent with the draft parts prepared by the other water services entities in any material respect, indicate the reasons for the inconsistency.

- (4) The board of each water services entity that prepares a draft Part 1 of its development code must send it to—
 - (a) the board of other water services entities; and
 - (b) the Commission.
- (5) The board of the water services entity, after receiving feedback, may then revise the draft Part 1 of the entity’s development code and send it to the Commission for approval.

294B Approval of Part 1 of draft development code

- (1) This section applies in relation to a draft Part 1 of a development code received by the Commission under **section 294A(5)**.
- (2) The Commission must consider if the purpose of set out in section 3(1) of the Water Services Entities Act 2022 ~~this Act~~ would be better promoted if the draft Part 1 of the development code were approved and whether **section 294(a)(i) to (iii)** has been complied with.
- (3) The Commission must approve the draft Part 1 of the code if the Commission is satisfied that the purpose of section 3(1) of this Act ~~section 3(1) of the Water Services Entities Act 2022~~ set out in section 3(1) of this Act would be better promoted if the draft Part 1 of the development code were approved and **section 294(a)(i) to (iii)** has been complied with.
- (4) If the Commission considers that the draft Part 1 does not comply with **section 294(a)(i) to (iii)** or is inconsistent with the better promotion of the purpose of section 3(1) of this Act ~~section 3(1) of the Water Services Entities Act 2022~~ set out in section 3(1) of this Act, the Commission must require the board of the water services entity to—
 - (a) amend the code to remedy the deficiency; and
 - (b) resubmit it to the Commission for approval, in accordance with any timetable set by the Commission; ~~and,~~
 - (e) ~~approve the code.~~

294C Preparing and approving Part 2 of development code

- (1) This section applies in relation to the preparation by the board of a water services entity, and the approval, of, a draft Part 2 of the entity’s development code.
- (2) After the draft Part 1 of its development code is approved by the Commission, the board of a water services entity must prepare a draft Part 2 of the entity’s development code; that—
 - (a) complies with **section 294(b)(i) to (xii)**; and
 - (b) gives effect to the principles set out in Part 1 of the development code (as approved by the Commission).

- (3) The board of the ~~Water Services Entities Act 2022~~ water services entity must then ensure that—
- (a) there is engagement on the draft Part 2 of the entity’s development code in accordance with **section 295**; and
 - (b) a copy of the draft Part 2 of the development code is sent to the Commission.
- (4) The board of the water services entity, after receiving feedback, may then revise the draft Part 2 of the entity’s development code and send it to the Commission.
- (5) The Commission must consider if the draft Part 2 of the code received under **subsection (4)** gives effect to the principles set out in Part 1 of the entity’s development code and complies with **section 294(b)(i) to (xii)**.
- (6) If the draft Part 2 of the development code gives effect to those principles and complies with **section 294(b)(i) to (xii)** the Commission must approve the code.
- (7) If the Commission considers that the draft Part does not comply with **section 294(b)(i) to (xii)** or does not give effect to those principles, the Commission must require the board of the water services entity to—
- (a) amend the code to remedy the deficiency; and
 - (b) resubmit it to the Commission for approval, in accordance with any timetable set by the Commission; ~~and,~~
 - (c) ~~approve the code.~~

294D Compliance with development code

- (1) Each water services entity must comply with its own development code.
- (2) ~~Each regulated water services provider (within the meaning of **section 61** of the **Water Services Economic Efficiency and Consumer Protection Act 2022**), that is not a water services entity, must comply with the development code of the water services entity within whose district the head office of the provider is located.~~

294E Amendment of development codes

- (1) If the board of a water services entity wishes to amend Part 1 of the entity’s development code, **sections 293A and 294 to 294B** apply with any necessary modifications.
- (2) If the board of a water services entity wishes to amend Part 2 of the entity’s development code, **sections 293A, 294, and 294C** apply with any necessary modifications.

295 Engagement on development code

- (1) The board of a water services entity must, when developing (or considering changes to) a development code, engage with interested persons.
- (2) In conducting the engagement, the board of a water services entity must—
 - (a) comply with the requirements set out in **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.

296 Review of development code

The chief executive of a water services entity must review a the entity's development code in accordance with **section 466**.

Process for stage 1 approval of concept plans

297 Stage 1 approval of concept plans: application of sections 298 to 303

Sections 298 to 303 apply if a person applies for a stage 1 approval of concept plans to be connected to or disconnected from water services infrastructure.

298 Stage 1 approval of concept plans: information required for applications

- (1) When making an application for a stage 1 approval of concept plans, the applicant must provide—
 - (a) ~~all of the information that the water services infrastructure connection requirements require~~ water services entity's development code requires for stage 1 applications; and
 - (b) any other information that the water services entity considers relevant.
- (2) When assessing an application, a water services entity may, in addition to the information provided in the application, consider any other information that it considers relevant.
- (3) If an application is incomplete, the water services entity may decline the application.

299 Stage 1 approval of concept plans: timing of approval of applications

- (1) A water services entity must, within 20 working days of receiving an application for a stage 1 approval of concept plans, give the applicant,—
 - (a) in the case of an approval, its decision in writing; and
 - (b) in the case of an initial decision to approve the application with conditions or an initial decision to decline the application, its initial decision in writing along with—
 - (i) the reasons for its initial decision; and

- (ii) a reasonable time frame (determined in consultation with the applicant) within which the applicant may amend the application or provide further information before a final decision is made.
- (2) A water services entity must, within 10 working days of receiving an amended application or further information,—
- (a) consider the amendments or further information; and
 - (b) give the applicant its final decision in writing.
- 300 Stage 1 approval of concept plans: approvals may be subject to conditions**
- A water services entity may approve an application for a stage 1 approval of concept plans subject to any conditions it considers appropriate.
- 301 Stage 1 approval of concept plans: grounds for declining applications**
- If a water services entity receives an application for a stage 1 approval of concept plans, it may decline the application if—
- (a) the water services infrastructure that is to be connected to or disconnected from lacks the capacity to handle the likely increase in demand for water services; or
 - (b) the water services entity determines that a more efficient way to connect to or disconnect from the water services infrastructure exists than the one proposed in the application; or
 - (c) there are circumstances specified in the water services infrastructure connection or disconnection requirements that warrant water services entity's development code that warrant declining the application.
- 302 Stage 1 approval of concept plans: period of validity for approval**
- (1) A stage 1 approval of concept plans is valid for 1 year.
 - (2) However, a stage 1 approval of concept plans may be valid for a period longer than 1 year if—
 - (a) the water services entity that granted the approval grants an extension; or
 - (b) the applicant and the water services entity agree to a longer specified period.
 - (3) An extension may be granted—
 - (a) in accordance with any requirements specified in the water services infrastructure connection requirements water services entity's development code; and
 - (b) subject to any conditions the water services entity considers appropriate; and
 - (c) for a specified period.

- (4) A water services entity may not specify a date for the end of a specified period that—
- (a) exceeds the expiry date of any applicable resource consent or building consent; or
 - (b) is more than 5 years after the date on which the extension is granted.
- (5) In this section, **specified period** means a period of time that—
- (a) begins with the date on which the extension is granted; and
 - (b) ends with the date specified in the extension.

Process for stage 2 approval of engineering plans

303 Stage 2 approval of engineering plans: application of sections 304 to 308
Sections 304 to 308 apply if—

- (a) ~~water services infrastructure connection or disconnection requirements require the water services entity's development code requires~~ a person to apply for a stage 2 approval of engineering plans; and
- (b) the person applies to be connected to or disconnected from the water services infrastructure.

304 Stage 2 approval of engineering plans: information required for applications

- (1) When making an application for a stage 2 approval of engineering plans, the applicant must provide all of the information that ~~the water services infrastructure connection requirements require~~ water services entity's development code requires for stage 2 applications, including (without limitation)—
- (a) all information specified in ~~the water services infrastructure connection requirements~~ development code; and
 - (b) an engineering plan that is prepared—
 - (i) in accordance with any engineering design standards specified in ~~the water services infrastructure connection requirements~~ development code; or
 - (ii) by a suitably qualified person specified in ~~the water services infrastructure connection requirements~~ development code; and
 - (c) any other information that the water services entity considers relevant.
- (2) When assessing an application, a water services entity may, in addition to the information provided in the application, consider any other information that it considers relevant.
- (3) If an application is incomplete, the water services entity may decline the application.

305 Stage 2 approval of engineering plans: timing of approval of applications

- (1) A water services entity must, within 30 working days of receiving an application for a stage 2 approval of engineering plans, give the applicant,—
- (a) in the case of an approval, its decision in writing; and
 - (b) in the case of an initial decision to approve the application with conditions or an initial decision to decline the application, its initial decision in writing along with—
 - (i) the reasons for its initial decision; and
 - (ii) a reasonable time frame (determined in consultation with the applicant) within which the applicant may amend the application or provide further information before a final decision is made.
- (2) A water services entity must, within 10 working days of receiving an amended application or further information,—
- (a) consider the amendments or further information; and
 - (b) give the applicant its final decision in writing.

306 Stage 2 approval of engineering plans: approvals may be subject to conditions

A water services entity may approve an application for a stage 2 approval of engineering plans subject to any conditions it considers appropriate.

307 Stage 2 approval of engineering plans: grounds for declining applications

If a water services entity receives an application for a stage 2 approval of engineering plans, it may decline the application if,—

- (a) for an engineering plan prepared in accordance with any engineering design standards specified in the ~~water services infrastructure connection or disconnection requirements~~ water services entity's development code, the water services entity determines that the engineering plan—
 - (i) does not comply with those standards; or
 - (ii) does not comply with any of the conditions of the stage 1 approval:
- (b) for an engineering plan prepared by a qualified person specified in the ~~water services infrastructure connection or disconnection requirements~~ water services entity's development code, the water services entity determines that—
 - (i) a more efficient way to connect to the water services infrastructure exists than the one proposed in the engineering plan; or
 - (ii) the engineering plan does not comply with any conditions of the stage 1 approval:

- (c) there are circumstances specified in the ~~water services infrastructure connection or disconnection requirements~~ development code that warrant declining the application.

308 Stage 2 approval of engineering plans: period of validity for approval

- (1) A stage 2 approval of engineering plans is valid for 5 years, unless the water services entity that granted the approval grants an extension.
- (2) An extension may be granted—
- (a) in accordance with any requirements specified in the ~~water services infrastructure connection requirements~~ water services entity's development code; and
- (b) subject to any conditions the water services entity considers appropriate; and
- (c) for a specified period.
- (3) A water services entity may not specify a date for the end of a specified period that—
- (a) exceeds the expiry date of any applicable resource consent or building consent; or
- (b) is more than 5 years after the date on which the extension is granted.
- (4) In this section, **specified period** means a period of time that—
- (a) begins with the date on which the extension is granted; and
- (b) ends with the date specified in the extension.

Process for stage 3 approval sign-off

309 Stage 3 approval sign-off: application of sections 310 to 315

Sections 310 to 315 apply if—

- (a) ~~water services infrastructure connection requirements require the water services entity's development code requires~~ a person to apply for a stage 3 approval sign-off to connect to or disconnect from a water services network; and
- (b) a water services entity grants or has granted the person—
- (i) a stage 2 approval; or
- (ii) a stage 1 approval in those cases in which a stage 2 approval is not required.

310 Stage 3 approval sign-off: information required for applications

- (1) When making an application for a stage 3 approval sign-off, the applicant must provide all of the information that the ~~water services infrastructure connection requirements require~~ water services entity's development code requires for stage 3 applications, including (without limitation)—

- (a) all information specified in the ~~water services infrastructure connection requirements~~ development code; and
 - (b) evidence that work undertaken complies with any relevant requirements and conditions of the approval process; and
 - (c) any other information that the water services entity considers relevant.
- (2) When assessing an application, a water services entity may, in addition to the information provided in the application, consider any other information that it considers relevant, including (without limitation) any information it may gather when undertaking site visits to inspect the work undertaken.
- (3) If an application is incomplete, the water services entity may decline the application.

311 Stage 3 approval sign-off: timing of approval of applications

- (1) A water services entity must, within 30 working days of receiving an application for a stage 3 approval sign-off, give the applicant,—
- (a) in the case of an approval, its decision in writing; and
 - (b) in the case of an approval with conditions or an initial decision to decline the application, its decision in writing along with—
 - (i) the reasons for its decision; and
 - (ii) a reasonable time frame (determined in consultation with the applicant) within which the applicant may amend the application or provide further information before a final decision is made.
- (2) A water services entity must, within 10 working days of receiving an amended application or further information,—
- (a) consider the amendments or further information; and
 - (b) give the applicant its final decision in writing.

311A Stage 3 approval sign-off may be subject to conditions

A water services entity may approve an application for a stage 3 approval sign-off subject to any conditions it considers appropriate.

312 Stage 3 approval sign-off: approval to connect or disconnect

- (1) If a water services entity approves an application for a stage 3 approval sign-off, the water services entity must issue to the applicant an approval that shows that the required work has been completed in accordance with any approvals granted under stage 1 or stage 2.
- (2) An approval issued under **subsection (1)** must—
- (a) contain the information required to be provided in the approval in the ~~water services infrastructure connection requirements~~ water services entity's development code and include (without limitation) the date on which the water services entity's approved agent is to connect (or dis-

connect) the applicant's property to (or from) the water services infrastructure; and

- (b) be issued at least 10 working days before the date for connecting to or disconnecting from the applicant's property to the water services infrastructure.

313 Stage 3 approval sign-off: certificates of connection or disconnection

- (1) As as soon as practicable after the connection or disconnection is completed, the water services entities must issue a certificate of completion to the applicant.
- (2) A certificate issued under **subsection (1)** must contain the information required to be provided in the certificate by the ~~water services infrastructure connection or disconnection requirements~~ water services entity's development code.

314 Stage 3 approval sign-off: grounds for declining applications

If a water services entity receives an application for a stage 3 approval sign-off, it may decline the application if satisfied that the work undertaken—

- (a) does not comply with any requirement or condition of stage 1 approval (where stage 1 approval is required);
- (b) does not comply with any requirement or condition of stage 2 approval (where stage 2 approval is required).

315 Stage 3 approval sign-off: period of validity for approval

- (1) A stage 3 approval sign-off is valid for 3 years unless the water services entity that granted the approval grants an extension.
- (2) An extension may be granted—
 - (a) in accordance with any requirements specified in the ~~water services infrastructure connection requirements~~ water services entity's development code; and
 - (b) subject to any conditions the water services entity considers appropriate; and
 - (c) for a specified period.
- (3) A water services entity may not specify a date for the end of a specified period that—
 - (a) exceeds the expiry date of any applicable resource consent or building consent; or
 - (b) is more than 8 years after the date on which the extension is granted.
- (4) In this section, **specified period** means a period of time that—
 - (a) begins with the date on which the extension is granted; and

- (b) ends with the date specified in the extension.

Continuing conditions

316 Registration of continuing conditions approval notices

- (1AAA) A water services entity may grant approval subject to conditions that the owner and subsequent owners are required to comply with on a continuing basis.
- (1) If a water services entity decides to grant approval subject to a condition that the owner and subsequent owners are required to comply with on a continuing basis, the water services entity—
- (a) must, for the purposes of ~~section 224 of the Resource Management Act 1994~~ **section 579 of the Natural and Built Environment Act 2022**, issue a written approval notice that specifies the condition to—
- (i) the applicant;
- (ii) the Registrar-General of Land to be lodged for registration under **section 584A** of that Act;
- (iii) the relevant territorial authority;
- (b) may (in any case other than a subdivision consent) include a condition requiring that a covenant be entered into, in favour of the water services entity, in respect of the performance of any condition of the approval.
- (1A) For the purposes of ~~section 224 of the Resource Management Act 1994~~ **section 579 of the Natural and Built Environment Act 2022**, written approval issued under **subclause (1) subsection (1)** is written consent.
- (2) The approval notice must be signed by a person that the water services entity has authorised to sign approval notices.
- (3) At any time after the approval notice is issued,—
- (a) the owner may apply to the water services entity to vary or cancel any condition specified in the approval notice;
- (b) the water services entity may review any condition specified in the approval notice and vary or cancel the condition.
- (4) The approval notice is to be treated as—
- (a) an instrument creating an interest in the land within the meaning of section 51 of the Land Transfer Act 2017 and may be registered accordingly; and
- (b) a covenant running with the land when registered under the Land Transfer Act 2017, and, despite anything to the contrary in section 103 of that Act, binds all subsequent owners of the land.
- (5) If a registered approval notice has been varied or cancelled or has expired, the Registrar-General of Land may make an entry in the register (and on any rele-

vant instrument of title) noting the variation, cancellation, or expiration if satisfied that it has occurred.

- (6) An approval notice in respect of Maori land must be lodged with the Registrar of the Maori Land Court and entered into Maori land records that the Maori Land Court holds.

Compare: 1991 No 69 s 221

Vesting

317 Vesting water services infrastructure in water services entity

- (1) A person may apply to a water services entity to vest water services infrastructure in the water services entity.
- (2) The water services entity may approve the application if—
- (a) the water services infrastructure meets the criteria specified in the ~~water services infrastructure connection requirements development code~~ for vesting water services infrastructure in the water services entity; and
 - (b) the water services entity—
 - (i) has granted stage 3 approval or issued a certificate of completion in respect of the water services infrastructure; or
 - (ii) considers that special circumstances exist and has reached an agreement with the person specifying the terms and conditions for vesting the water services infrastructure in the water services entity.
- (3) If the application is approved, the water services entity must—
- (a) issue a certificate to the applicant and the Registrar-General of Land that documents the vesting; and
 - (b) ensure that the relevant records are amended to show that the water services infrastructure is vested in the water services entity.
- (3A) If the application is approved, the Registrar-General of Land must amend the relevant records of title to show that the water services infrastructure is vested in the water services entity.
- (4) In this section, **person** means the owner of the water services infrastructure.

Part 11 Charging

Rates rebate scheme

318 Charging information needed by territorial authorities

- (1) By 1 August of each year, each water services entity must give the relevant territorial authority all charging information from the water services entity's

records that is reasonably required by the territorial authority in order to calculate entitlements to rebates under the Rates Rebate Act 1973.

- (2) For the purposes of this section, **charging information** includes (without limitation) the names and addresses of the persons that the water services entities have charged for the delivery of water services and the amounts that those persons were charged.

Compare: 2020 No 47 s 41

Sharing rating information

319 Rating information needed by water services entity

- (1) This section applies in relation to a rating information database that a local authority keeps and maintains under section 27 of the Local Government (Rating) Act 2002.
- (2) The local authority must give a water services entity information in the rating information database that the water services entity reasonably needs to charge its consumers, if the water services entity—
- (a) requests the information; and
 - (b) provides water services to consumers in the area of the local authority.
- (3) The local authority must provide the rating information—
- (a) as soon as is reasonably practicable after receiving a request from the water services entity; and
 - (b) on a reasonable cost basis.

Compare: 2020 No 47 s 41

320 Rating information that may not be withheld

- (1) This section applies to a local authority that—
- (a) has removed particulars from its rating information database under section 28C(3) of the Local Government (Rating) Act 2002; and
 - (b) has not restored the particulars under section 28C(4) of that Act.
- (2) The local authority—
- (a) must provide, if requested by a water services entity, information that the local authority holds but has been removed from the database; and
 - (b) may not withhold any particulars that remain removed from its rating information database under section 28C(3) of the Local Government (Rating) Act 2002.

Liability for water services charges

321 Liability for water services charges in respect of property

- (1) This section applies to any person who—

- (a) owns property, other than Maori land, in the service area of a water services entity; or
- (b) occupies property in the service area of a water services entity under a lease that—
 - (i) is for a term (including renewals) exceeding 10 years; and
 - (ii) is registered under section 91 of the Land Transfer Act 2017 on or after 12 November 2018; or
 - (iii) provides that the lessee must be entered in the rating information database and the district valuation roll as the ratepayer in respect of the unit; or
 - (iv) occupies public conservation land or Crown land in accordance with a lease, license, permit, easement, or other similar authority.
- (2) The person is liable to pay water services charges (other than trade waste charges) for the water services that the water services entity provides in respect of the property.
- (3) The occupier is liable to pay trade waste charges in respect of a property—
 - (a) that has a trade waste permit; or
 - (b) for which an application for a trade waste permit has been lodged.
- (4) However, this section does not apply to Maori land in the water services entity's service area (for which **section 322** provides).

322 Liability for water services charges in respect of Maori land

- (1) This section applies to Maori land in the service area of a water services entity.
- (2) If Maori land is owned legally and beneficially by 1 or 2 owners, the owner or owners are liable to pay water services charges, other than trade waste charges, for the water services that the water services entity provides for the Maori land.
- (3) If Maori land in multiple ownership is leased, the lessee is liable to pay water services charges (other than trade waste charges) for the water services that the water services entity provides for the Maori land unless the lease provides for the lessor to be liable to pay the water services charges.
- (3A) If Maori land in multiple ownership is occupied through an arrangement other than a lease, the occupier is liable to pay water services charges (other than trade waste charges) for the water services that the water services entity provides for the Maori land unless the arrangement provides for the owners or trustees to be liable to pay the water services charges.
- (4) If Maori land in multiple ownership is subject to an occupation order made by the Maori Land Court under section 328 of Te Ture Whenua Maori Act 1993 (or an equivalent order made under an Act replaced by that Act), the person in whose favour the order is made is liable to pay water service charges (other

than trade waste charges) for the Maori land unless the order provides for the owners or trustees to pay the water services charges.

(5) If **subsection (3), (3A), or (4)** does not apply, the following persons are liable to pay the water services charges (other than trade waste charges):

(a) for Maori land owned by more than 2 persons who are not trustees, the owners:

(b) for Maori land vested in trustees, the trustees.

(6) If an area is divided from Maori land, the person actually using the area is liable to pay the water services charges (other than trade waste charges) for water services that the water services entity provides for the area.

(7) In this section,—

lease includes a tenancy at will, and any other tenancy that confers a leasehold interest upon the tenant, whether at law or in equity

trustee includes a body corporate constituted under Part 13 of Te Ture Whenua Maori Act 1993.

Compare: 2002 No 6 s 92

323 Limitation on trustee liability

(1) If trustees are liable to pay water services charges in respect of Maori land under **section 322**,—

(a) the charges must be paid out of income derived from the land and received by the trustees for the beneficial owners of the land; and

(b) the trustees are liable for charges only to the extent of the money derived from the land and received by the trustees on behalf of the beneficial owner or owners.

(2) Trustees seeking to rely on **subsection (1)(b)** must, on request by a water services entity, provide copies of any annual financial statements provided to the beneficial owners by the trustees.

Compare: 2002 No 6 s 93

324 Water services charges and fees to constitute debt

(1) Any water services charge or fee that has become payable to a water services entity is—

(a) a water services debt due to the water services entity; and

(b) recoverable as a debt by the water services entity in any court of competent jurisdiction.

(2) Until the charge or fee is paid in full, it remains a debt due to the water services entity.

Compare: 2014 No 32 s 211

325 Penalty for failure to pay water services charges and fees

- (1) If, after the expiry of the time provided for by or under this Act or by **subsection (3)**, all or any part of a water services debt remains unpaid to a water services entity, the unpaid debt increases at a penalty rate determined by—
 - (a) the Commission in the service quality code; or
 - (b) the calculation method that the Commission has specified in the service quality code.
- (3) If a time for payment is not provided for by the Commission in the service quality code, the debt must be paid within 20 working days after the written demand for payment from the water services entity is received by the person responsible for payment.
- (4) When the water services entity notifies a person of the incurring of a water services debt, it must also notify that person of the consequences of non-payment under this section.
- (5) This section applies only in respect of water services debts that first arise after the commencement of this Act.

Compare: 2014 No 32 s 215

326 Waiver or refund of debt

The chief executive of a water services entity may, in relation to a debt due under **section 324**,—

- (a) waive all or any part of a debt:
- (b) refund all or any part of any payment of the debt.

327 Waiver of penalty

- (1) The chief executive of a water services entity may waive the payment of all or any part of the penalty added to a debt under **section 325** if satisfied that the failure or refusal of a person to pay all or any part of the debt was a result of a genuine dispute between the person and the water services entity as to either or both of the following:
 - (a) the person's liability to pay the debt:
 - (b) the amount of the debt.
- (2) The chief executive of the water services entity may also waive the payment of all or any part of the penalty if the chief executive is satisfied that there is some other good reason for waiving payment.
- (3) In any action for the recovery of a water services debt, the court may waive the payment of all or any part of the penalty added to the debt under **section 325** if the court is satisfied that the failure or refusal of a person to pay all or any part of the debt was a result of a genuine dispute between the person and the water services entity as to either or both of the following:
 - (a) the person's liability to pay the debt:

- (b) the amount of the debt.

Compare: 2014 No 32 s 216

328 Disputes do not suspend obligations to pay charges, fees, or penalties

A dispute between a person and the chief executive of a water services entity about the person's liability to pay a charge, fee, or penalty under this Act does not suspend—

- (a) the obligation of the person to pay the charge, fee, or penalty; or
- (b) the right of the chief executive to receive and recover the charge, fee, or penalty.

Compare: 2014 No 32 s 213

329 Charging for volumetric use of water supply or wastewater services

- (1) A water services entity may charge a consumer for the consumer's volumetric use of water supply or wastewater services (**these water services**).
- (2) If a water services entity does so, it must,—
 - (a) in the case of a consumer who is to be charged for the first time for these water services, determine the consumer's volumetric use during the period—
 - (i) beginning on the date on which the water meter for the consumer starts operating; and
 - (ii) ending on the date of the first meter reading;
 - (b) in the case of a consumer who has had a water meter installed but did not previously pay a charge for volumetric use, determine the consumer's volumetric use during the period—
 - (i) beginning on the date on which the water services entity provides these water services to the consumer; and
 - (ii) ending on the date of the first meter reading;
 - (c) in the case of any other consumer, determine the consumer's volumetric use since the latest meter reading for which the water services entity charged the consumer.
- (3) Despite anything in **subsection (2)**, a water services entity may—
 - (a) estimate the consumer's volumetric use once between each determination and charge the consumer for the estimated use;
 - (b) charge a consumer for any unpaid volumetric use since the consumer was last billed, including any use that occurred before the water services entity was established.

Framework for setting water services charges

330 Board may set certain charges

- (1) The board of a water services entity may set water services charges for all or any of the following:
 - (a) water supply services:
 - (b) wastewater services, including trade waste services:
 - (c) stormwater services:
 - (d) the initial connection to 1 or more of the services specified in **paragraphs (a) to (c)**:
 - (e) a contribution to the capital costs of infrastructure to service—
 - (i) the additional demand on the network:
 - (ii) increased demand for 1 or more of the services specified in **paragraphs (a) to (c)**:
 - (f) meeting the costs that the water services entity incurs in performing and exercising its duties, functions, and powers under this Act.
- (2) The board of a water services entity may determine how a charge is set or how it may be paid or collected, and may (by way of example and without limitation of the board's discretion)—
 - (a) charge a fixed or variable fee:
 - (b) require a deposit and then further payment:
 - (c) require full payment at the outset:
 - (d) charge on the basis of an hourly rate or any other rate or method of charging.
- (3) A charge set under this section must be set in accordance with the funding and pricing plan of the water services entity.

Compare: 2004 No 72 s 281A(2)

331 Charging principles

- (1) The board of a water services entity must consider the following principles when setting charges or requiring water infrastructure contributions under **section 330**:
 - (a) charges should reflect the costs of service provision, including (without limitation) by—
 - (i) promoting the efficient use of resources:
 - (ii) charging different groups of consumers differently only if—
 - (A) those groups receive different levels or types of services; or
 - (B) the cost of providing services to those groups is different;
- and

- (b) charges should be simple, transparent, and easy for consumers to understand; and
 - (c) charges should be consistent with the input methodologies and determinations that the Commission issues or makes.
- (1A) However, the board may consider any other matters it considers appropriate when setting charges or requiring water infrastructure contributions under **section 330**.
- (2) Despite **subsection (1)**, the board may set lower charges (including no charges) for particular consumers to remedy inequities in the provision of services, including (without limitation) differences in water infrastructure contributions made before ~~1 July 2027~~ **1 July 2029**.
- (3) When the board is assessing the application of the principle specified in **subsection (1)(a)(ii)(B)**, the prices for the different groups of consumers are geographically averaged over different areas, the costs being compared must be the average costs for the smaller of the areas being compared.

Example

If trying to compare a commercial charge that is averaged at a territorial authority district level with a residential charge that is averaged at a service area level, the correct comparison is with the residential costs for the same territorial authority district, not the service area.

- (4) **Subsection (1)** does not override **section 333**.
- (4A) Nothing in this section limits the power in **section 334** to charge geographically averaged prices for water services.
- (5) This section applies only on the earlier of the following:
- (a) a date appointed by the Governor-General by Order in Council:
 - (b) ~~1 July 2027~~ **1 July 2029**.
- (6) An Order in Council made under **subsection (5)(a)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

332 Obligation to publish tariff lists

- (1) The board of a water services entity—
- (a) must publish a tariff list setting out the water services charges that apply to its annual billing period (at least once a year) on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible; and
 - (b) must update the tariff list as soon as practicable after the board makes any changes to it.
- (2) However, the board is not required to comply with **subsection (1)** in respect of charges that the board considers to be customised or otherwise unusual.

- (3) For the purposes of this section, **tariff list** means a list of the water services charges set under **section 330**.

332A Boards must adopt discount policies

- (1) The board of a water services entity must adopt a policy for discounting charges.
- (2) The board of a water services entity must—
- (a) publish the discount policy that applies to its annual billing period (at least once a year) on an Internet site maintained by, or on behalf of, the water services entity; and
 - (b) update the published discount policy as soon as practicable after the board makes any changes to it.
- (3) The discount policy must not apply to water infrastructure contributions.

333 Chief executive of water services entity may discount charges

- (1) The chief executive of a water services entity may do 1 or both of the following:
- (a) discount any charges; and
 - (b) offer a discount to any class of consumers or individual consumers that takes measures to reduce the burden on water services.
- (2) A discount given under this section must be consistent with the policy for discounting charges adopted under **section 332A**.

Geographical averaging

334 Charges for water services may be averaged geographically

- (1) The board of a water services entity may—
- (a) charge geographically averaged prices for water services:
 - (b) geographically average prices at different scales for different service types and different classes of consumers.
- (2) However, the board of a water services entity may decide not to charge a geographically averaged price if—
- (a) communities receive—
 - (i) a higher level of service than is generally provided elsewhere within those boundaries; or
 - (ii) a lower level of service than is generally provided elsewhere within those boundaries; or
 - (b) a levy is in place within those boundaries under the Infrastructure Funding and Financing Act 2020; or
 - (c) a water services entity has taken over a failed drinking water supplier; or

- (d) a water supply charge has a volumetric component and the difference in charges is only a difference in that component.
- (2A) If the board of a water services entity decides to charge a geographically averaged price,—
 - (a) the board must include the price, and the method for determining it, in the funding and pricing plan of the water services entity;
 - (b) the Commission may not override the decision.
- (3) This section does not apply to water infrastructure contributions.
Compare: 2001 No 103 s 201

Changing contracted prices

335 Chief executive of water services entity may enter into negotiations to change certain provisions in certain contracts

- (1) The chief executive of a water services entity may enter into negotiations to change the pricing and charging provisions in a contract that—
 - (a) relates to the supply of water services by the water services entity; and
 - (b) is transferred from a local government organisation to the water services entity.
- (2) In complying with **subsection (1)**, the chief executive must—
 - (a) provide the other parties to the contract with written notice of the proposed changes, including the reasons for them; and
 - (b) discuss the proposed changes with those parties along with any alternative changes that the parties may put forward; and
 - (c) consider any relevant matters or concerns the parties raise or put forward regarding the proposed changes or alternatives.
- (3) If the chief executive and the other parties fail to vary the contract before **1 July 2029**, the contract expires.

Charging unconnected properties

339 Liability for certain charges in respect of properties not connected to water supply or wastewater networks

- (1) This section applies to a person who owns property that—
 - (a) is within 100 metres of a water supply or wastewater network that has sufficient capacity to service the property; and
 - (b) is not, but can be, connected to that supply or network; and
 - (c) is not Maori land; and
 - (d) is not non-rateable land specified in Part 1 of Schedule 1 of the Local Government (Rating) Act 2002.

- (2) The person is liable to pay charges for water supply and wastewater services if the board of the relevant water services entity sets charges for those services in relation to property that is not connected to its water supply or wastewater network.
- (3) However, if the property is non-rateable land specified in Part 2 of Schedule 1 of the Local Government (Rating) Act 2002, the person is liable to pay only 50% of those charges.
- (4) For the purposes of this section, a **person who owns property** includes a person who leases property under a lease that requires the person to pay charges to a water services entity that the owner of the property would otherwise pay.

Stormwater charging

340 Requirements for charges for stormwater services

- (1) A water services entity must calculate the total recoverable cost of delivering its stormwater services in its service area during the financial year in accordance with any relevant input methodologies for price-quality regulation that the Commission has determined.
- (2) The board of a water services entity must determine the apportionment of the recoverable cost of stormwater services on the basis of—
 - (a) the capital value of the property (which may be adjusted by a suitable valuation index to take account of the different 3-yearly valuation cycles in different territorial authorities); and
 - (b) whether the property is—
 - (i) served by a stormwater network or is within 100 metres of a stormwater network that can serve the property; or
 - (ii) within a particular geographical zone of the water services entity's service area that is specified in a water services entity's stormwater management plan under **section 256(1)(b)**.
- (3) The chief executive of a water services entity must—
 - (a) publish the water services entity's stormwater services recoverable costs calculations and recoverable cost apportionment determinations on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible; and
 - (b) review the calculations and determinations in accordance with **section 466**.
- (4) This section applies on and after the ~~earlier~~ earliest of the following:
 - (a) the date on which the Commission has put in place the relevant input methodologies:
 - (aa) a date appointed by the Governor-General by Order in Council:
 - (b) **1 July 2024** **July 2026**.

(5) An Order in Council made under **subsection (4)(aa)** is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

341 Liability for stormwater services charges

- (1) This section applies to a person who owns property that—
- (a) is not Maori land that receives water supply or wastewater services; and
 - (b) is not non-rateable land specified in Part 1 of Schedule 1 of the Local Government (Rating) Act 2002.
- (2) A person to whom this section applies is liable to pay charges for stormwater services if the board of the relevant water services entity sets charges for those services in relation to property that is in its service area.
- (3) The board must set the charges on the basis provided for in **section 340(2)**.
- (4) However, if the property is non-rateable land specified in Part 2 of Schedule 1 of the Local Government (Rating) Act 2002, the person is liable to pay only 50% of those charges.
- (5) For the purposes of this section, a **person who owns property** includes a person who leases property under a lease that requires the person to pay charges to a water services entity that the owner of the property would otherwise pay.

342 Water services entity not liable for rates in certain cases

A water services entity is not liable to pay rates to any local authority in respect of—

- (a) any pipes that it owns and that run through property that it does not own; or
- (b) any assets that it owns and that are located on property that it does not own.

Water infrastructure contributions

343 Basis on which water infrastructure contributions may be required

~~(1AAA) The purpose of the water infrastructure contributions provision in this Act is to enable water services entities to recover a fair, equitable, and proportionate portion of the total cost of capital expenditure necessary to service an additional or increased demand on water services infrastructure over the long term from persons who are—~~

- ~~(a) undertaking development; or~~
- ~~(b) placing increased commercial demand on water services.~~

(1AAA) The purposes of water infrastructure contributions are to enable a water services entity—

- (a) to recover a fair, equitable, and proportionate portion of the total cost of capital expenditure necessary to service an additional or increased

demand on water services infrastructure over the long term from persons who are—

- (i) undertaking development; or
- (ii) placing increased commercial demand on water services; and

(b) to meet the water services entity's obligations under **section 220(1AAB)** and **262** relating to the management and maintenance of overland flow paths and watercourses.

- (1) The board of a water services entity may require water infrastructure contributions in relation to developments or increased commercial demand if the effect of the developments or increased demand is expected to require new or additional assets or assets of increased capacity and, as a consequence, a water services entity incurs, or expects to incur, capital expenditure to provide for those assets.
- (2) This section does not prevent the board of a water services entity from setting water infrastructure contributions that are to be used to pay, in full or in part, for capital expenditure already incurred by the water services entity, or a local government organisation before the water services entity's establishment date, in anticipation of development or increased commercial demand.
- (3) All water infrastructure contributions must be consistent with the policy adopted under **section 346**.
- (4) ~~In this section~~ **subsection (1), effect** includes the cumulative effect that a development or increased commercial demand may have in combination with other developments or increased commercial demand.

344 Principles for setting water infrastructure contributions or policies

- (1) When the board of a water services entity adopts a water infrastructure contributions policy under **section 346** or requires water infrastructure contributions under **section 343**, the board should take into account the following principles:
 - (a) water infrastructure contributions should be required only if the effects or cumulative effects of developments or increased commercial demand have created or will create a requirement for the water services entity to provide new or additional assets or assets of increased capacity:
 - (b) water infrastructure contributions should be determined in a manner that ~~is generally consistent with~~ has regard to the capacity life of the assets or groups of assets for which they are intended to be used and in a way that avoids over-recovery of costs allocated to water infrastructure contributions funding:
 - (c) cost allocations used to establish water infrastructure contributions should be determined according to, and be proportional to, the persons who are to benefit from the assets to be provided (including the community as a whole) and the persons who create the need for those assets:

- (d) water infrastructure contributions should be used only for the benefit of the area or the part of the area that is identified in the water infrastructure contributions policy in which the water infrastructure contributions are required;
 - (e) water services entities should make sufficient information available to demonstrate what water infrastructure contributions are being used for and why they are being used;
 - (f) when calculating and requiring water infrastructure contributions, water services entities should group together certain developments by geographic area or categories of land use, provided that the grouping is done in a manner that balances practical and administrative efficiencies with considerations of fairness and equity.
- (2) Water infrastructure contributions must be consistent with the input methodology or methodologies and determinations that the Commission issues or makes.

345 Board may discount water infrastructure contributions in certain circumstances

- (1) The board of a water services entity may discount water infrastructure contributions (including by charging no contributions) for a person who—
- (a) owns the property related to the development of the infrastructure; and
 - (b) has put in place measures that mitigate, or will mitigate, additional demand on water supply, wastewater networks, and stormwater networks.
- (2) **Subsection (1)** applies despite anything in **section 331**.

346 Board must adopt water infrastructure contributions policy

- (1) The board of a water services entity must adopt a water infrastructure contributions policy.
- (2) A water infrastructure contributions policy must include—
- (a) the total cost of capital expenditure that the water services entity expects to incur to meet the increased demand for water services and the basis of these estimates; and
 - (b) the proportion of the total cost to be funded by the water infrastructure contributions policy; and
 - (c) a schedule of the water infrastructure contributions that apply to new developments and increases in commercial demand; and
 - (d) a summary of the methodology applied by the water services entity to determine those contributions in line with the principles specified in **section 344**; and
 - (e) a statement of the discounts available for demand mitigation measures.

- (3) The board of a water services entity must include the policy in its funding and pricing plan.

347 Review of water infrastructure contributions policy

The board of a water services entity must review its water infrastructure contributions policy in accordance with **section 466**.

348 Crown exempt from water infrastructure contributions

- (1) The Crown is exempt from paying any water infrastructure contributions.
(2) However, this section does not apply to Kāinga Ora.

349 When water services entity may charge for water infrastructure contributions

- (1) A water services entity may charge a person who owns property in its service area for water infrastructure contributions required under **section 343** when—

- (a) the person is granted—
(i) a resource consent under the ~~Resource Management Act 1991~~ **Natural and Built Environment Act 2022** for a development within its service area; or
(ii) a building consent under the Building Act 2004 for a development in its service area:
(b) the person's property is connected to a water service;
(c) an increase in commercial demand for water services occurs;
(d) a stage 1, 2, or 3 approval is granted under **Part 10**.

- (1A) A water services entity may only charge a person who owns property for a water infrastructure contribution if the contribution is consistent with a policy adopted under **section 346**.

- (1B) For the purposes of **subsection (1A)**, a water infrastructure contribution must be consistent with the content of the water infrastructure contributions policy adopted under **section 346** that was in force at the time that the person submitted an application (with all of the required information) for a resource consent, building consent, or service connection, or at the time the increase in commercial demand occurred.

- (2) A person who owns property and a water services entity may agree that—
(a) any unpaid water infrastructure contributions may be paid off in quarterly or annual instalments over an agreed period (not exceeding 50 years);
(b) the water services entity may charge an agreed rate of interest on any unpaid balance.

- (2A) A water services entity may refuse to connect a property to water services if the person who owns property has not—
- (a) paid their water infrastructure contribution; or
 - (b) agreed to an instalment plan.
- (3) A water services entity may charge an agreed rate of interest on the unpaid balance with the rate agreed with the person who owns property when the agreement is put in place.
- (3A) A water services entity must register any unpaid balance against the relevant land under the Land Transfer Act 2017 on the title of the land in respect of which the water infrastructure contribution was required.
- (4) If the property subject to the agreement is sold, the new owner of the property is liable to pay the unpaid water infrastructure contributions in accordance with the agreement reached under **subsection (2)**.
- (5) For the purposes of this section, a **person who owns property** includes a person who leases property under a lease that requires the person to pay charges to a water services entity that the owner of the property would otherwise pay.

349A Review of decisions to charge water infrastructure contributions

A person who is charged for a water infrastructure contribution may apply under **section 446** for a review of the decision to charge that person on any ground set out in **section 349D**.

349B Refund of water infrastructure contributions

- (1) A person who has paid all or part of a water infrastructure contribution is entitled to a refund of the payment from the water services entity if—
- (a) the water services entity does not use the water infrastructure contribution for the purpose for which it was charged; or
 - (b) the relevant resource consent or building consent lapses; or
 - (c) the development will not proceed.
- (2) Despite anything in **subsection (1)**, a water services entity may retain any portion of a water infrastructure contribution that is equivalent in value to the costs incurred by the water services entity in relation to a development that does not proceed.

Objections to water infrastructure contributions

349C Right to object to assessed amount of water infrastructure contribution

- (1) A person may object, on any ground set out in **section 349D**, to the assessed amount of the water infrastructure contribution that a water services entity has charged the person under **section 349**, advised in—

- (a) a notice given to the person for that purpose by the water services entity; or
 - (b) if notice has not been given, such other formal advice of the requirement that the water services entity has given to the person.
- (2) The right of objection conferred by **subsection (1)** applies irrespective of whether an internal review of the requirement for a water infrastructure contribution has been applied for under **section 446**.
- (3) The right of objection conferred by this section does not apply to challenges to the content of a water infrastructure contributions policy prepared in accordance with **section 346**.

349D Scope of water infrastructure contribution objections

- (1) An objection under **section 349C** may be made only on the grounds that—
- (a) a water services entity has—
 - (i) failed to properly take into account features of the objector’s development or increased commercial demand that, on their own or cumulatively with those of other developments or increased commercial demand from other properties, would substantially reduce the impact of the development or increased demand on requirements for assets in the water services entity’s service area or parts of that service area; or
 - (ii) required a water infrastructure contribution for assets not required by, or related to, the objector’s development or increased commercial demand, whether on its own or cumulatively with other developments or increased commercial demand from other properties; or
 - (iii) already required a water infrastructure contribution for the same purpose in respect of the same development or increased commercial demand; or
 - (iv) incorrectly applied its water infrastructure contributions policy to the objector’s development or increased commercial demand;
 - (b) the objector will fund or otherwise provide for the same assets for which the water infrastructure contribution had been required.
- (2) However, an objection may not be made on the ground outlined in **subsection (1)(a)(iii)** if the water services entity has required an additional water infrastructure contribution to reflect an increase in the scale or intensity of the development or further increase in commercial demand since the original contribution was required.

349E Procedure for water infrastructure contribution objections

Sections 199H, 199I, 199K, 199L, 199M, 199N, 199O, and Schedule 13A of the Local Government Act 2002 apply in relation to objections under **section 349C** with all necessary modifications, including the following:

- (a) a reference to a territorial authority must be read as a reference to a water services entity:
- (b) a reference to a district must be read as a reference to a service area:
- (c) a reference to a development contribution must be read as a reference to a water infrastructure contribution:
- (d) a reference to a development contribution objection must be read as a reference to a water infrastructure contribution objection:
- (e) a reference to a development contributions policy must be read as a reference to a water infrastructure contributions policy:
- (f) the right to lodge a development contribution objection under section 199C must be read as the right to lodge a water infrastructure contribution objection under **section 349C** of this Act:
- (g) the notice of the outcome of a reconsideration under section 199B of the Local Government Act 2002 must be read as the notice of decision on internal review under section 448 of this Act:
- (h) a reference to section 150A must be read as a reference to **section 349H** of this Act.

349F Consideration of water infrastructure contribution objection

When considering a water infrastructure contribution objection and any evidence provided in relation to that objection, development contributions commissioners must give due consideration to the following:

- (a) the grounds on which the water infrastructure contribution objection was made:
- (b) the purpose and principles of water infrastructure contributions set out in **sections 343 and 344**:
- (c) the provisions of the water infrastructure contributions policy under which the water infrastructure contribution that is the subject of the objection was, or is, required:
- (d) the cumulative effects of the objector's development or increased commercial demand in combination with the other developments or increased commercial demand in a service area, or parts of a service area, on the requirement to provide the assets that the water infrastructure contribution is to be used for or toward:

- (e) any other relevant factor associated with the relationship between the objector's development or increased commercial demand and the water infrastructure contribution to which the objection relates.

349G Interim effect of water infrastructure contribution objection

- (1) If a water infrastructure contribution objection is lodged, the water services entity may still require the water infrastructure contribution to be made, but must not use it until the objection has been determined.
- (2) If a water services entity does not require a water infrastructure contribution to be made pending the determination of an objection, the water services entity may withhold granting a service connection under **Part 10** until the objection has been determined.

349H Costs of water infrastructure contribution objections

- (1) If a person objects to a water services entity's requirement that a water infrastructure contribution be made, the water services entity may recover from the person its actual and reasonable costs in respect of the objection.
- (2) The costs that the water services entity may recover under this section are the costs incurred by it in respect of—
 - (a) the selection, engagement, and employment of the development contributions commissioners; and
 - (b) the secretarial and administrative support of the objection process; and
 - (c) preparing for, organising, and holding the hearing.
- (3) A water services entity may, in any particular case and in its absolute discretion, waive or remit the whole or any part of any costs that would otherwise be payable under this section.
- (4) A water services entity's actual and reasonable costs in respect of objections are recoverable under **section 324**.

Territorial authorities

350 Territorial authorities may no longer use certain contributions

- (1) Despite anything in the Local Government Act 2002 or the ~~Resource Management Act 1991~~ **Natural and Built Environment Act 2022**, on or after ~~1 July 2024~~ **1 July 2026**, a territorial authority—
 - (a) may not require development contributions under the Local Government Act 2002 or ~~financial contributions under the Resource Management Act 1991~~ **environmental contributions under the Natural and Built Environment Act 2022** to fund infrastructure or other assets that the water services entity holds, including infrastructure or other assets transferred from the territorial authority to a water services entity;

- (b) may not use development contributions collected under the Local Government Act 2002 or ~~financial contributions collected under the Resource Management Act 1991~~ environmental contributions collected under the **Natural and Built Environment Act 2022** to fund infrastructure or other assets that the water services entity holds, including infrastructure or other assets transferred from the territorial authority to a water services entity.
- (2) Nothing in this section prevents a territorial authority from requiring development contributions or ~~financial~~ environmental contributions to fund water services infrastructure where applications for a resource consent, building consent, or service connection have been lodged prior to ~~1 July 2024~~ the water services entity's establishment date.

Part 12

Compliance and enforcement

Subpart 1—Director of Compliance and Enforcement

351 Director of Compliance and Enforcement

- (1) A water services entity must appoint an employee of the water services entity as Director of Compliance and Enforcement for the entity.
- (2) The Director must not also hold the position of chief executive of the water services entity.
- (3) The Director—
- (a) must be appointed for a term not exceeding 5 years; and
 - (b) may be reappointed.
- (4) The chief executive of the water services entity must—
- (a) consult the board of the water services entity on the terms and conditions of employment of the Director; and
 - (b) agree terms and conditions of employment with the Director; and
 - (c) give effect to those terms and conditions.
- (5) To avoid doubt, when performing or exercising a function, duty, or power under this Act or any other Act, the Director—
- (a) does so as an employee of the water services entity; but
 - (b) must exercise independent judgement if that Act requires the Director to do so (for example, if there is any requirement to act independently of the water services entity or any other person).

352 Director's functions, duties, and powers

- (1) The Director of Compliance and Enforcement has the functions, duties, and powers conferred or imposed directly on the Director under this Act.
- (2) Without limiting **subsection (1)**, the Director's functions, duties, and powers include the functions, duties, and powers set out in this **Part**, except any functions, duties, and powers in **subpart 11** (which relates to internal reviews and appeals).

353 Director's duty to act independently

- (1) The Director of Compliance and Enforcement must act independently when performing or exercising their functions, duties, and powers under this Act or any other Act.
- (2) The board or the chief executive of a water services entity may not give directions to the Director in relation to the performance or exercise of the Director's functions, duties, or powers.

Subpart 2—Compliance and enforcement strategy

354 Water services entity must issue compliance and enforcement strategy

- (1) The board of a water services entity must issue a compliance and enforcement strategy for the water services entity.
- (2) The purpose of the strategy is to—
 - (a) provide transparency about the water services entity's intended approach for achieving compliance with this Act or secondary legislation made (or treated as if it were made) under this Act over a 3-year period, and the outcomes sought from that approach;
 - (b) provide a basis on which the water services entity is accountable for the performance and exercise of its functions, duties, and powers set out in this **Part**.
- (3) The board—
 - (a) must review the strategy at least every 3 years; and
 - (b) may amend the strategy at any time.
- (4) The board may, following a review, issue a new compliance and enforcement strategy that replaces the strategy that was reviewed.
- (5) A compliance and enforcement strategy must relate to at least 3 financial years.
- (6) When issuing or reviewing the strategy, the board must seek to ensure that the strategy is consistent with the compliance and enforcement strategies of other water services entities and, if the strategy is inconsistent with the compliance and enforcement strategy of any other water services entities in any material respect, indicate the reasons for the inconsistency.

- (7) As soon as practicable after issuing a compliance and enforcement strategy, the board must publish a copy of the strategy on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible.
- (8) The Director of Compliance and Enforcement must have regard to the strategy when performing their functions, duties, and powers.

355 Engagement on compliance and enforcement strategy

- (1) The board of a water services entity must, when developing (or considering any changes to) its compliance and enforcement strategy, engage with interested persons.
- (2) In conducting the engagement, the board of a water services entity must—
 - (a) comply with the requirements set out in **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.

Subpart 3—Compliance and enforcement provisions

Compliance officers

357 Appointment of compliance officers

- (1) A water services entity may, by notice in writing, appoint the following as a compliance officer:
 - (a) an employee of the water services entity;
 - (b) any other person who the Director of Compliance and Enforcement is satisfied—
 - (i) is suitably qualified and trained; or
 - (ii) belongs to a class of persons who are suitably qualified and trained to perform or exercise all or any of the functions, duties, and powers of a compliance officer.
- (2) A compliance officer's compliance powers are subject to any conditions or limitations specified in the notice of the officer's appointment (including any conditions imposed at the request of the Director of Compliance and Enforcement).
- (3) However, the exercise of a compliance power by a compliance officer is not invalid merely because it did not comply with the conditions specified in their notice of appointment.

Compare: 2015 No 70 s 163; 2021 No 36 s 98

358 Identity cards

- (1) A water services entity must give each compliance officer an identity card that states the person's name and appointment as a compliance officer.
- (2) A compliance officer must, when exercising compliance powers under this Act, produce their identity card for inspection on request.
- (3) A person who ceases to be a compliance officer must return the identity card to the water services entity as soon as practicable.

Compare: 2015 No 70 s 164; 2021 No 36 s 99

359 Suspension and ending of appointment of compliance officers

- (1) A water services entity may suspend or end the appointment of a compliance officer at any time.
- (2) To avoid doubt, a person's appointment as a compliance officer ends when the person ceases to be eligible for appointment as a compliance officer.

Compare: 2015 No 70 s 165; 2021 No 36 s 100

360 Compliance officer subject to Director of Compliance and Enforcement's directions

- (1) A compliance officer (whether or not an employee) is subject to directions of the Director of Compliance and Enforcement in the exercise of their compliance powers.
- (2) A direction under **subsection (1)** may be of a general nature or may relate to a specified matter or specified class of matter.
- (3) A failure to comply with a direction under **subsection (1)** does not invalidate the exercise of a compliance officer's compliance powers.
- (4) The board or the chief executive of a water services entity may not give directions to a compliance officer in relation to the exercise of their compliance powers.

Compare: 2015 No 70 s 166; 2021 No 36 s 101

361 Director of Compliance and Enforcement has powers of compliance officer

The Director of Compliance and Enforcement has all the powers that a compliance officer has under this Act.

Compare: 2015 No 70 s 167; 2021 No 36 102

Compliance powers

362 Purpose of compliance powers

A compliance officer may exercise a power under this **Part** only for 1 or more of the following purposes:

- (a) to ensure that compliance requirements have been, are being, or will be met:

- (b) to investigate serious risks relating to water services:
- (c) to respond to ~~a specified serious risks or a potential specified serious risk~~ specified serious risks:
- (d) to investigate the commission of offences under this Act:
- (e) to bring proceedings in relation to any compliance order or offence under this Act.

Compare: 2021 No 36 s 103

363 Power to restrict water supply

- (1) If a compliance officer exercises a power for a purpose specified in **section 362(a) or (c)**, a water services entity may restrict the water supply to land or a building if a person, in respect of the land or building,—
 - (a) commits an offence against this Act or legislation made under this Act; or
 - (b) fails or refuses to do anything required by this Act or a requirement set under this Act in respect of water services; or
 - (c) fails to comply with any rule or arrangement made under this Act or legislation made under this Act that relates to water services; or
 - (d) fails or refuses to do anything that the person has undertaken or agreed to do in respect of water services supplied to the person’s land or building; or
 - (e) refuses entry to, or obstructs, a compliance officer exercising a power of entry in respect of water services; or
 - (f) fails to pay applicable fees or charges for the delivery of water services.
- (2) Nothing in **subsection (1)** limits or affects the duty of a water services entity to provide a sufficient quantity of drinking water under section 25(1) of the Water Services Act 2021.

Compare: 2002 No 84 s 193

364 Directions

- (1) A compliance officer may issue a direction to a person who has a duty or requirement to ensure that compliance requirements have been, are being, or will be met.
- (2) A person to whom a direction is issued must comply with the direction within any time frame (including immediately) specified in the direction (if any).
- (3) A direction may be amended or revoked at any time.
- (4) The amendment or revocation of a direction does not have retrospective effect.
- (5) A compliance officer must issue a direction under this section in accordance with **section 366**.

Compare: 2021 No 36 s 104

365 Compliance officer’s powers in respect of specified serious risk

- (1) This section applies if a compliance officer believes, on reasonable grounds, that a specified serious risk exists.
- (2) The compliance officer may—
 - (a) take immediate action, or direct any person to take immediate action, to prevent, reduce, or eliminate the specified serious risk;
 - (b) direct any person to stop, or prohibit any person from starting, anything that the compliance officer believes, on reasonable grounds, is a cause of, or contributes to, the specified serious risk.
- (3) A person who is directed by a compliance officer under **subsection (2)** must comply with that direction.
- (4) A compliance officer must issue a direction under this section in accordance with **section 366**.

Compare: 2021 No 36 s 105

366 Requirements for directions

- (1) A direction issued under **section 364 or 365(2)(b)**—
 - (a) must be in writing; and
 - (b) must contain contact information for the water services entity and the compliance officer (if applicable); and
 - (c) must state that a person has a right of review under **section 446** or a right of appeal under **section 450**; and
 - (d) may be addressed to any person under the person’s legal name or usual business name or style.
- (2) In this section, **contact information** includes—
 - (a) the name of the Director of Compliance and Enforcement, and the name of the compliance officer (if applicable); and
 - (b) 1 or more of the following:
 - (i) phone number;
 - (ii) email address;
 - (iii) physical or postal address.

Compare: 2015 No 70 s 112; 2021 No 36 s 125

Power to take and test samples

367 Power to take and test samples

- (1) A compliance officer may, for a purpose specified in **section 362**, take and test a sample of any material, substance, or thing for analysis.
- (2) However, nothing in **subsection (1)** authorises a compliance officer to take a sample from a person’s body.

- (3) A compliance officer must, not later than 10 working days after removing any sample under this section, give the person from whom it was taken an inventory of all samples taken.
- (4) A sample taken under **subsection (1)** may only be used to determine whether compliance requirements have been, are being, or will be met.

Compare: 2015 No 70 s 172; 2021 No 36 s 107

Power to obtain information

368 Power to obtain information

- (1) A compliance officer may, for the purpose of performing or exercising their functions or powers,—
- (a) inspect, at all reasonable times, all records and documents of every description in the possession or control of a person that are required to be kept under this Act; and
 - (b) make copies of, or take extracts from, those records and documents; and
 - (c) direct any person who has possession or control of those records and documents to supply to the compliance officer, in any reasonable manner that the officer specifies, all or any of those records or documents; and
 - (d) take photographs, video recordings, and other visual images; and
 - (e) take audio sound recordings; and
 - (f) make electronic records.
- (2) The compliance officer must, not later than 10 working days after directing a person to supply documents under this section, give the person an inventory of all documents taken.
- (3) Subpart 5 of Part 4 of the Search and Surveillance Act 2012 (privilege and confidentiality) applies to anything done under this section.
- (4) Nothing in this section limits any other legislation that imposes a prohibition or restriction on the collection of information.

Compare: 2021 No 36 s 108

369 Power to require name and address

- (1) A compliance officer may require a person to provide the person's name and residential address if—
- (a) the officer finds the person committing an offence against this Act; or
 - (b) the officer finds the person in circumstances that lead, or has information that leads, the officer to reasonably suspect that the person has committed an offence against this Act.
- (2) When asking a person to provide their name and residential address, the compliance officer must—

- (a) tell the person the reason for the requirement to provide their name and residential address; and
 - (b) warn the person that it is an offence to fail to provide their name and residential address, unless the person has a reasonable excuse.
- (3) If the compliance officer reasonably believes that the name and residential address a person provides are false, the compliance officer may require the person to give evidence of their correctness.
- (4) Subpart 5 of Part 4 of the Search and Surveillance Act 2012 (privilege and confidentiality) applies to anything done under this section.
- (5) Nothing in this section limits any other legislation that imposes a prohibition or restriction on the collection of information.

Compare: 2015 No 70 s 175; 2021 No 36 s 109

370 Power to question

- (1) If a compliance officer reasonably believes that a person holds relevant information, the compliance officer may direct that person to answer any question for the purpose of—
- (a) ensuring that compliance requirements have been, are being, or will be met; or
 - (b) investigating anything the officer believes is, ~~or might be,~~ a specified serious risk.
- (2) The person must answer the questions, subject to **subsections (3) and (4)**.
- (3) Subpart 5 of Part 4 of the Search and Surveillance Act 2012 (privilege and confidentiality) applies to anything done under this section.
- (4) Nothing in this section limits any other legislation that imposes a prohibition or restriction on the collection of information.

Compare: 2021 No 36 s 110

371 Powers of entry and inspection

- (1) A compliance officer may exercise a power under **subsection (2)** for 1 or more of the purposes in **section 362(a) to (c)**.
- (2) Subject to this section, a compliance officer may, in relation to a place,—
- (a) enter the place; and
 - (b) inspect the place; and
 - (c) exercise the power set out in **section 367** (power to take and test samples).
- (3) Before exercising the power to enter a place, the compliance officer must make reasonable efforts to contact the owner, occupier, or person in charge of the place.

- (4) A compliance officer must not enter a home, except with the consent of an occupier.
- (5) A compliance officer must not enter any land on which a marae or an urupā is situated or that is a Maori reservation, except with the consent of an owner.
- (6) A compliance officer must not enter any Maori land unless, before entering, the compliance officer has given reasonable notice in writing to the owner (or owners) of the land.
- (7) However, if the land referred to in **subsection (6)** is owned by more than 10 persons with no clear management structure or is owned by more than 10 persons and not vested in a trustee, the compliance officer must not enter the land unless, before entering, the compliance officer has given reasonable notice in writing to the trustees of the principal marae of the hapū associated with the land.
- (8) A compliance officer must not enter any land that is a reserve vested in a post-settlement governance entity and managed by an administering body unless, before entering, the compliance officer has given reasonable notice in writing to the post-settlement governance entity and the administering body.
- (9) A compliance officer must not enter a defence area (within the meaning of section 2(1) of the Defence Act 1990) under this section, except in accordance with a written agreement between the Director of Compliance and Enforcement and the Chief of Defence Force.
- (10) Part 4 of the Search and Surveillance Act 2012 (other than subparts 2, 3, 6, and 8 and sections 118 and 119) applies to anything done under this section.
- (11) For the purposes of this section, in relation to circumstances in which consent is required, the person giving consent must be a person who has the capacity to consent.

Compare: 2021 No 36 s 111

372 Power to enter place without search warrant

- (1) A compliance officer may exercise a power under **subsection (2)** if the officer believes, on reasonable grounds, that the exercise of the power is required in relation to a specified serious risk.
- (2) A compliance officer may, in relation to a place,—
 - (a) enter the place without a search warrant; and
 - (b) search the place; and
 - (c) exercise any of the powers in **sections 364 to 370**.
- (3) Before exercising the power to enter a place, the compliance officer must make reasonable efforts to contact the owner, occupier, or person in charge of the place.
- (4) A compliance officer must not enter a home, except with the consent of an occupier.

- (5) A compliance officer must not enter any land on which a marae or an urupā is situated or that is a Maori reservation, except with the consent of an owner.
- (6) A compliance officer must not enter any Maori land unless, before entering, the compliance officer has given reasonable notice in writing to the owner (or owners) of the land.
- (7) However, if the land referred to in **subsection (6)** is owned by more than 10 persons with no clear management structure or is owned by more than 10 persons and not vested in a trustee, the compliance officer must not enter the land unless, before entering, the compliance officer has given reasonable notice in writing to the trustees of the principal marae of the hapū associated with the land.
- (8) A compliance officer must not enter any land that is a reserve vested in a post-settlement governance entity and managed by an administering body unless, before entering, the compliance officer has given reasonable notice in writing to the post-settlement governance entity and the administering body.
- (9) A compliance officer must not enter a defence area (within the meaning of section 2(1) of the Defence Act 1990) under this section, except in accordance with a written agreement between the Director of Compliance and Enforcement and the Chief of Defence Force.
- (10) Part 4 of the Search and Surveillance Act 2012 (other than subparts 2, 3, 6, and 8 and sections 118 and 119) applies to anything done under this section.
- (11) For the purposes of this section, in relation to circumstances in which consent is required, the person giving consent must be a person who has the capacity to consent.

Compare: 2014 No 32 s 311; 2021 No 36 s 112

373 Notice of entry

- (1) If a compliance officer enters any place under this Act and is unable, despite reasonable efforts, to find the owner, occupier, or person in charge as required by this Act, the officer must, before leaving the place, leave a written notice stating—
 - (a) the officer’s identity; and
 - (b) the officer’s contact information; and
 - (c) the date and time of entry; and
 - (d) the officer’s reasons for entering.
- (2) In **subsection (1)(b)**, **contact information** includes—
 - (a) the name of the officer; and
 - (b) 1 or more of the following:
 - (i) phone number:
 - (ii) email address:

(iii) physical or postal address.

Compare: 2015 No 70 s 171; 2021 No 36 s 113

374 Power of Director of Compliance and Enforcement to authorise making of applications for search warrants

- (1) The Director of Compliance and Enforcement may authorise a specified person to enter and search a place, vehicle, or other thing for the purpose of ascertaining whether a person has engaged in or is engaging in conduct that contravenes or may contravene any compliance requirement, if satisfied that there are reasonable grounds—
- (a) to suspect that person has engaged in or is engaging in conduct that constitutes or may constitute a contravention; and
 - (b) to believe that the search will find evidential material in or on any part of the place, vehicle, or thing.
- (2) A specified person authorised under **subsection (1)** may enter and search the place, vehicle, or other thing if—
- (a) the occupier of the place or the person in charge of the vehicle or thing (as the case may be) consents; or
 - (b) the specified person obtains a warrant under **subsection (3)**.
- (3) An issuing officer may issue a search warrant in relation to a place, vehicle, or thing on an application made in the manner provided by subpart 3 of Part 4 of the Search and Surveillance Act 2012 by a specified person authorised under **subsection (1)**, if the issuing officer is satisfied that there are reasonable grounds—
- (a) to suspect that a person has engaged in or is engaging in conduct that contravenes or may contravene any compliance requirement or drinking water safety plan; and
 - (b) to believe that the search will find evidential material in or on any part of the place, vehicle, or thing.
- (4) In this section, **specified person** means—
- (a) a compliance officer; or
 - (b) an employee of the water services entity; or
 - (c) any other person who the Director of Compliance and Enforcement is satisfied is suitably qualified and trained.
- (5) Despite **subsection (4)**, a constable may apply for a warrant to be issued under **subsection (3)** without an authorisation from the Director of Compliance and Enforcement.
- (6) The provisions of Part 4 of the Search and Surveillance Act 2012 (except sections 118 and 119) apply, with any necessary modifications.

Compare: 2015 No 70 s 173; 2021 No 36 s 114

375 Continuation of powers of entry and inspection without search warrants

A compliance officer who, in the course of exercising a power under **section 372**, finds evidence of contravention of a relevant compliance requirement is not required to obtain a search warrant under **section 374** to continue exercising powers under **section 372**.

Compare: 2015 No 70 s 174; 2021 No 36 s 115

376 Conditions of entry, search, and seizure

(1) A compliance officer must take all reasonable steps to ensure that any equipment the officer has taken into a place is—

- (a) free from contamination; and
- (b) in good working order.

(2) Section 110(e) of the Search and Surveillance Act 2012 applies.

Compare: 2014 No 32 s 299; 2021 No 36 s 116

377 Compliance with Building Act 2004

If a compliance officer, in the course of performing functions or exercising powers under this Act, believes that any building or sitework that relates to water services infrastructure does not comply with the Building Act 2004 or the building code, the officer must notify the appropriate territorial authority in writing and include details of the officer's opinion.

Compare: 1956 No 65 s 128A; 2021 No 36 s 117

378 Power to ask for assistance

(1) A compliance officer who considers it necessary to do so may ask a person for assistance in performing their functions or exercising their powers (other than exercising a power of entry), under this Act.

(2) If the person agrees to assist, they—

- (a) must act under the supervision of, and as instructed by, the officer; and
- (b) may accompany the officer into any place that the officer enters.

Compare: 2014 No 32 s 297; 2021 No 36 s 118

379 Protection of persons acting under authority of Act

(1) This section applies to the following persons:

- (a) an officer, employee, or agent of a water services entity acting under **section 217**;
- (b) the Director of Compliance and Enforcement;
- (c) a compliance officer;
- (d) a person called to assist a compliance officer;
- (e) a water services entity;

- (f) a specified person authorised to enter and search a place, vehicle, or thing under **section 374**.
- (2) The person is protected from civil and criminal liability, however it may arise, for any act that the person does or omits to do in the performance or purported performance of the person's duties or functions, or the exercise or purported exercise of the person's powers, under this Act—
 - (a) in good faith; and
 - (b) with reasonable cause.
- (3) *See also* section 6 of the Crown Proceedings Act 1950.
Compare: 2014 No 32 s 351; 2021 No 36 s 119

Compliance orders

380 Power to issue compliance order

- (1) The Director of Compliance and Enforcement may serve a compliance order on any person—
 - (a) requiring that person to stop, or prohibiting that person from starting, anything done or to be done by, or on behalf of, that person that the Director believes, on reasonable grounds,—
 - (i) contravenes, or is likely to contravene, a compliance requirement; or
 - (ii) will or may create a specified serious risk; or
 - (b) requiring that person to do something that the Director believes, on reasonable grounds, will—
 - (i) ensure compliance by, or on behalf of, that person with the compliance requirement; or
 - (ii) prevent, reduce, or eliminate any specified serious risk.
- (2) A compliance order may be made subject to directions and conditions.
Compare: 2021 No 36 s 120

381 Compliance with compliance order

- (1) A person on whom a compliance order is served must—
 - (a) comply with the order within the period specified in it; and
 - (b) unless the order directs otherwise, pay all the costs and expenses of complying with it.
- (2) This section is subject to **sections 450 to 454** (which set out rights of appeal).
Compare: 2021 No 36 s 121

382 Form and content of compliance order

A compliance order must state—

- (a) the name of the person to whom it relates; and
- (b) the reasons for the order; and
- (c) the action required to be taken, stopped, or not to be taken; and
- (d) the period within which the action must be taken or stopped, being a reasonable period within which to take the action required or to stop the action.

Compare: 2021 No 36 s 122

383 Director may vary or cancel order

Except as provided in **section 454**, a compliance order may be amended or revoked by the Director of Compliance and Enforcement at any time.

Compare: 2015 No 70 ss 114, 124; 2021 No 36 s 123

384 Formal irregularities or defects in order

A compliance order is not invalid merely because of any defect, irregularity, omission, or want of form in the order unless the defect, irregularity, omission, or want of form causes or is likely to cause a miscarriage of justice.

Compare: 2015 No 70 s 115; 2021 No 36 s 124

385 When Director of Compliance and Enforcement may take remedial action

- (1) This section applies if a person fails to comply with the whole or any part of a compliance order that is issued to the person.
- (2) The Director of Compliance and Enforcement may take any remedial action they believe is reasonable to address serious risks to—
 - (a) ensure compliance by, or on behalf of, that person with a compliance requirement; or
 - (b) prevent, reduce, or eliminate a specified serious risk.
- (3) However, the Director of Compliance and Enforcement may only take action under **subsection (2)** after giving written notice to the person of—
 - (a) the Director’s intention to take that action; and
 - (b) the person’s liability for the costs of that action.

Compare: 2015 No 70 s 119; 2021 No 36 s 126

386 Power of Director of Compliance and Enforcement to take other remedial action

- (1) This section applies if the Director of Compliance and Enforcement reasonably believes that—
 - (a) circumstances exist in which a compliance order can be issued; but

- (b) a compliance order cannot be issued at a place because, after reasonable steps are taken, the person to whom the order could be issued cannot be found.
- (2) The Director of Compliance and Enforcement may take any remedial action necessary to—
 - (a) ensure compliance by, or on behalf of, that person with any compliance requirement; or
 - (b) prevent, reduce, or eliminate a specified serious risk.

Compare: 2015 No 70 s 120; 2021 No 36 s 127

387 Costs of remedial or other action

- (1) A water services entity may recover as a debt due to the water services entity the reasonable costs of any remedial action taken under—
 - (a) **section 385** from the person to whom a compliance order is issued; or
 - (b) **section 386** from any person to whom a compliance order could have been issued in relation to the matter.

- (2) This section is subject to **section 388**.

Compare: 2015 No 70 s 121; 2021 No 36 s 128

388 Protection of Maori land against execution for debt

- (1) This section applies in relation to—
 - (a) a judgment for the payment of costs of remedial or other action under **section 387**;
 - (b) a fine imposed for an offence against this Act.
- (2) The judgment or fine cannot be enforced against a person's interest in Maori customary land or, subject to section 343 of Te Ture Whenua Maori Act 1993, a person's beneficial freehold interest in Maori freehold land.
- (3) Nothing in **subsection (2)**—
 - (a) limits or affects the operation of any mortgage or charge to which any Maori land is subject;
 - (b) applies to any revenue derived by any person from any interest in land to which that subsection applies, and all such revenue is available for the payment of the person's debts.
- (4) For the purposes of this section, the interest of any person in Maori land is to be taken to include—
 - (a) that person's interest in all timber, flax and other things (other than industrial crops) so attached to the land as to form part of it as between the heir and the executor of a deceased freeholder at common law; and
 - (b) while the land remains Maori land, that person's interest in all money that is the proceeds of any alienation of that land, except any money that

has been actually received by that person or by any trustee for that person.

Compare: 1993 No 4 s 342

Water meters

389 Chief executive of water services entity may authorise persons to read water meters

- (1) The chief executive of a water services entity may authorise persons to access the properties of its consumers for the purpose of reading water meters.
- (2) Before authorising a person under **subsection (1)**, the chief executive must be satisfied that the person—
 - (a) meets the requirements of section 69 of the Water Services Act 2021 and any relevant regulations made under that Act; and
 - (b) has received the training needed to access the property appropriately and to read the water meter accurately.
- (3) The authorisation—
 - (a) must be in writing; and
 - (b) may not be granted to a person who is appointed as a compliance officer under this Act.

390 Authorised persons may access properties under certain conditions

- (1) A person authorised under **section 389** may access the property of a consumer only—
 - (a) for the purpose of checking a water meter or any equipment or device (for example, a backflow prevention device) required by a rule made **under section 274**; and
 - (b) in accordance with the process set out in the relevant service agreement.
- (2) The person exercising the power under **subsection (1)** must have the appropriate written authorisation and evidence of identity, and must produce them to the person in charge of the property concerned—
 - (a) on first entering the property; and
 - (b) whenever subsequently reasonably required to do so by the person in charge.

Compare: 2020 No 38 s 626(5)

Subpart 4—Offences

*Offence relating to water services infrastructure***391AAA Carrying out building work over or near water services infrastructure without approval**

- (1) A person commits an offence against this section if the person carries out building work over or near water services infrastructure without approval and the work causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$20,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$200,000.

*Offences relating to water supply network***391 Intentionally or recklessly engaging in conduct relating to water supply network that causes specified serious risk**

- (1) A person commits an offence against this section if the person—
 - (a) engages in conduct relating to a water supply network that causes a specified serious risk; and
 - (b) intentionally causes, or is reckless as to, the specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a term of imprisonment not exceeding 2 years or a fine not exceeding \$75,000, or both;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1.5 million.

392 Negligently engaging in conduct relating to water supply network that causes specified serious risk

- (1) A person commits an offence against this section if the person negligently engages in conduct relating to a water supply network that causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$100,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$600,000.

Offences relating to wastewater network

393 Intentionally or recklessly disposing of materials or substances into wastewater network

- (1) A person commits an offence against this section if the person—
 - (a) disposes of materials or substances in, or discharges them into, a wastewater network and that disposal or discharge causes a specified serious risk; and
 - (b) intentionally causes, or is reckless as to, the specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a term of imprisonment not exceeding 2 years or a fine not exceeding \$75,000, or both;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1.5 million.

394 Negligently disposing of materials or substances into wastewater network

- (1) A person commits an offence against this section if the person negligently disposes of materials or substances in, or discharges them into, a wastewater network and that disposal or discharge causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$100,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$600,000.

395 Connecting to, disconnecting from, or discharging into wastewater network without authorisation

- (1) A person commits an offence against this section if the person connects to, disconnects from, or discharges material or substances into a wastewater network without the authorisation of a water services entity.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$100,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.

396 Intentionally or recklessly engaging in conduct relating to wastewater network that causes specified serious risk

- (1) A person commits an offence against this section if the person—

- (a) engages in conduct relating to a wastewater network that causes a specified serious risk; and
 - (b) intentionally causes, or is reckless as to, the specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a term of imprisonment not exceeding 2 years or a fine not exceeding \$75,000, or both:
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1.5 million.

397 Negligently engaging in conduct relating to wastewater network that causes specified serious risk

- (1) A person commits an offence against this section if the person negligently engages in conduct relating to a wastewater network that causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$100,000:
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$600,000.

398 Discharging trade waste without trade waste permit

- (1) A person commits an offence against this section if the person discharges trade waste into a wastewater network without a trade waste permit issued under **section 267**.
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$500,000:
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$3 million.

399 Breach of trade waste permit

- (1) A person commits an offence against this section if the person breaches a trade waste permit issued under **section 267**.
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$250,000:
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$3 million.

Offences relating to stormwater network

400 Intentionally or recklessly disposing of or discharging materials or substances into stormwater network causing specified serious risk

- (1) A person commits an offence against this section if the person—
 - (a) disposes of or discharges materials or substances into a stormwater network and that disposal or discharge causes a specified serious risk; and
 - (b) intentionally causes, or is reckless as to, the serious specified risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$200,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1.5 million.

401 Negligently disposing of or discharging substances or materials into stormwater network

- (1) A person commits an offence against this section if the person negligently disposes of or discharges materials or substances into a stormwater network and the disposal or discharge causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$50,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.

402 Intentionally or recklessly engaging in conduct relating to stormwater network that causes specified serious risk

- (1) A person commits an offence against this section if the person—
 - (a) engages in conduct relating to a stormwater network that causes a specified serious risk; and
 - (b) intentionally causes, or is reckless as to, the specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a term of imprisonment not exceeding 2 years or a fine not exceeding \$75,000, or both;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1.5 million.

402A Connecting to or disconnecting from, or discharging materials or substances into, stormwater network without authorisation

- (1) A person commits an offence against this section if the person, without authorisation from a water services entity,—
 - (a) connects to or disconnects from a stormwater network; or
 - (b) discharges materials or substances into a stormwater network.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$50,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.

403 Negligently engaging in conduct relating to stormwater network that causes specified serious risk

- (1) A person commits an offence against this section if the person negligently engages in conduct relating to a stormwater network that causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$100,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$600,000.

*Other offences relating to water supply network, wastewater network, and stormwater network***404 Discharging into water supply network without authorisation**

- (1) A person commits an offence against this section if the person discharges anything into a water supply network without written authorisation from a water services entity.
- (2) A person who commits an offence against **subsection (1)** is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$50,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.

405 Connecting to or disconnecting from water supply network or supplying water to another person without authorisation

- (1) A person commits an offence against this section if the person—
 - (a) knowingly connects to or disconnects from, or takes water from, a water supply network without authorisation from a water services entity; or

- (b) having been supplied with water by a water services entity from a water supply network, knowingly and without authorisation from the water services entity extends their network connection to another property that should be party to a service agreement with the water services entity.
- (2) A person does not commit an offence against **subsection (1)(b)** if the activity is authorised by section 48 of the Fire and Emergency New Zealand Act 2017.
- (3) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$50,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.

406 Carrying out work on or in relation to water supply network, wastewater network, or stormwater network without authorisation

- (1) A person commits an offence against this section if the person knowingly carries out work on or in relation to a water supply network, wastewater network, or a stormwater network owned or operated by a water services entity without first—
 - (a) notifying the water services entity of their intention to carry out the work; and
 - (b) obtaining written authorisation from the water services entity to carry out the work on any terms or conditions that the water services entity thinks fit.
- (2) A person does not commit an offence against this section if the work is carried out in accordance with a statutory authorisation.
- (3) It is a defence to an offence against this section if the work carried out was necessary to avoid an emergency, or to mitigate or remedy the effects of an emergency.
- (4) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$100,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.
- (5) Nothing in this section applies to work carried out on, in relation to, or near any green stormwater infrastructure, overland flow path, or watercourse that is part of, or relates to, a stormwater network.

*Offence relating to plans, rules, directions, and compliance orders***408 Breach of controlled drinking water catchment management plan or permit**

- (1) A person commits an offence against this section if the person—
 - (a) breaches a prohibition, restriction, or requirement set out in a controlled drinking water catchment management plan issued under **section 232**; or
 - (b) breaches a prohibition, restriction, or requirement in a permit issued under **section 232A**.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$20,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$100,000.

409 Breach of requirement, condition, authorisation, or prohibition in stormwater network rule

- (1) A person commits an offence against this section if the person—
 - (a) has a duty under a stormwater network rule made under **section 260**; and
 - (b) knowingly fails to comply with that duty and that non-compliance causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$20,000;
 - (b) for a body corporate, to a fine not exceeding \$200,000.

410 Failure to comply with rule relating to equipment or device

- (1) A person commits an offence against this section if the person—
 - (a) has a duty under a rule made under **section 274(1)(c)** relating to equipment or devices; and
 - (b) knowingly fails to comply with that duty and that non-compliance causes a serious specified risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$20,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$200,000.

411 Failure to notify water services entity of notifiable risk or hazard

- (1) A person commits an offence against this section if the person—
 - (a) has a duty to notify a water services entity of a notifiable risk or hazard in a rule made under **section 274(1)(d)**; and
 - (b) knowingly fails to comply with that duty and that non-compliance causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$50,000;
 - (b) for a body corporate or unincorporated body, to a fine not exceeding \$200,000.

411A Failure to comply with water use restriction or limit

- (1) A person commits an offence against this section if the person—
 - (a) is subject to a water use restriction or limit set out in rules made under **section 274**; and
 - (b) knowingly fails to comply with that restriction or limit and causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$20,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$100,000.

411B Breach of rule relating to undertaking specified classes of work near, under, or above water supply system, wastewater network, or stormwater network

- (1) A person commits an offence against this section if the person knowingly fails to comply with a rule made under **section 285** regulating, restricting, or prohibiting the undertaking of specified classes of work near, under, or above a water supply system, a wastewater network, or a stormwater network.
- (2) A person does not commit an offence against this section if the work is undertaken in accordance with a statutory authorisation.
- (3) It is a defence against this section if the defendant proves that—
 - (a) the action or event to which the prosecution relates was necessary for the purposes of preventing, avoiding, or mitigating a specified serious risk; and
 - (b) the conduct of the defendant was reasonable in the circumstances; and
 - (c) the defendant took steps that were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred.

- (4) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$20,000:
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$200,000.
- (5) Nothing in this section applies to work undertaken on, in relation to, or near any green stormwater infrastructure, overland flow path, or watercourse that is part of, or relates to, a stormwater network.

412 Failure to comply with direction issued by compliance officer

- (1) A person commits an offence against this section if the person fails to comply with a direction issued by a compliance officer under **section 364 or 365(2)(b)**.
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$75,000:
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$300,000.

413 Failure to comply with compliance order or court order

- (1) A person commits an offence against this section if the person fails to comply with a compliance order issued under **section 380** or an order of the court made under this Act.
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$75,000:
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$300,000.

Offences relating to tampering with water meters

416 Tampering with water meter

- (1) A person commits an offence against this section if the person, without the prior written authorisation of a water services entity,—
- (a) alters the index of, or in any other manner tampers with, a water meter;
or
 - (b) alters the position of a water meter.
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$50,000:

- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$200,000.

Offences relating to duties associated with administration of Act

417 Hindering or obstructing employee or agent of water services entity

- (1) A person commits an offence against this section if the person intentionally hinders or obstructs an employee or agent of a water services entity who is performing a duty or function, or exercising a power, under this Act.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to imprisonment for a term not exceeding 3 months and a fine not exceeding \$10,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$250,000.

418 Threatening or assaulting employee or agent of water services entity

- (1) A person commits an offence against this section if the person intentionally threatens or assaults an employee or agent of a water services entity who is performing a duty or function, or exercising a power, under this Act.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to imprisonment for a term not exceeding 3 months and a fine not exceeding \$50,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$250,000.

419 Pretending to be compliance officer, employee, or agent of water services entity

- (1) A person commits an offence against this section if, with intent to deceive, the person pretends to be—
 - (a) an employee or agent of a water services entity; or
 - (b) a person who has been appointed as a compliance officer under **section 357**.
- (2) A person who commits an offence against this section is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$50,000;
 - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$250,000.

Subpart 5—Infringement offences

420 Interpretation

In this **subpart**,—

infringement fee, in relation to an infringement offence, means the infringement fee for the offence specified in regulations made under **section 474(1)(g)**

infringement offence means one of the following that is declared by regulations made under **section 474(1)(e)** to be an infringement offence for the purposes of this Act:

- (a) an offence against a provision in **subpart 4 of Part 12**, other than an offence against **section 391, 393, 396, 400, 402, 405, 406, 409, 410, 411, 411A, 411B, 417, 418, or 419**;
- (b) an offence against any secondary legislation made under this Act.

Compare: 2015 No 70 s 136; 2021 No 36 s 149

421 Infringement offences

- (1) A person who is alleged to have committed an infringement offence may—
 - (a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or
 - (b) be issued with an infringement notice under **section 422**.
- (2) Proceedings commenced in the way described in **subsection (1)(a)** do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.
- (3) *See* section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.

Compare: 2015 No 70 s 137; 2021 No 36 s 150

422 When infringement notice may be issued

The Director of Compliance and Enforcement or a compliance officer may issue an infringement notice to a person if they believe on reasonable grounds that the person is committing, or has committed, an infringement offence.

Compare: 2021 No 36 s 151

423 How infringement notice may be served

- (1) The Director of Compliance and Enforcement or a compliance officer may serve an infringement notice on the person alleged to have committed an infringement offence by—
 - (a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or

- (b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or
 - (c) leaving it for the person at the person's place of business or work with another person; or
 - (d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or
 - (e) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand.
- (2) Unless the contrary is shown,—
- (a) an infringement notice (or a copy of it) sent by prepaid post to a person under **subsection (1)(d)** is to be treated as having been served on that person on the fifth working day after the date on which it was posted; and
 - (b) an infringement notice sent to a valid electronic address under **subsection (1)(e)** is to be treated as having been served at the time the electronic communication first entered an information system that is outside the control of the Director of Compliance and Enforcement or the compliance officer.
- (3) In this section, **information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications.

Compare: 2021 No 36 s 152

424 What infringement notice must contain

- (1) An infringement notice must be in the form prescribed in the regulations and must contain the following particulars:
- (a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence;
 - (b) the amount of the infringement fee;
 - (c) the address of the place at which the infringement fee may be paid;
 - (d) how the infringement fee may be paid;
 - (e) the time within which the infringement fee must be paid;
 - (f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957;
 - (g) a statement that the person served with the notice has a right to request a hearing;
 - (h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing;
 - (i) any other particulars prescribed in the regulations.

- (2) If an infringement notice has been issued under this section, the procedure under section 21 of the Summary Proceedings Act 1957 may be used in respect of the offence to which the infringement notice relates and, in that case, the provisions of that section apply with all necessary modifications.

Compare: 2015 No 70 s 138; 2021 No 36 s 153

425 Revocation of infringement notice before payment is made

- (1) The Director of Compliance and Enforcement or a compliance officer may revoke an infringement notice issued under **section 422** before—
- (a) the infringement fee is paid; or
 - (b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.
- (2) The Director of Compliance and Enforcement or a compliance officer must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice.
- (3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in **section 421(1)(a) or (b)** against the person to whom the notice was issued in respect of the same matter.

Compare: 2015 No 70 s 139; 2021 No 36 s 154

426 Payment of infringement fees

All infringement fees paid for infringement offences must be paid to the water services entity that issued the infringement notice.

Compare: 2015 No 70 s 140; 2021 No 36 s 155

427 Reminder notices

A reminder notice must be in the form prescribed in the regulations and must include the same particulars, or substantially the same particulars, as the infringement notice.

Compare: 2021 No 36 s 156

Subpart 6—Criminal proceedings

428 Meaning of enforcement action

In this **subpart**, unless the context otherwise requires, **enforcement action** means—

- (a) the filing of a charging document by the Director of Compliance and Enforcement under section 14 of the Criminal Procedure Act 2011, or the issuing of an infringement notice by the Director of Compliance and Enforcement or a compliance officer in respect of an offence under this Act; and

- (b) the filing of a charging document by a person other than the Director of Compliance and Enforcement under section 14 of the Criminal Procedure Act 2011 in respect of an offence under this Act.

Compare: 2015 No 70 s 141; 2021 No 36 s 157

429 Person may notify Director of Compliance and Enforcement of interest in knowing of enforcement action

- (1) A person may notify the Director of Compliance and Enforcement in the manner determined by the Director that the person has an interest in knowing whether a particular incident, situation, or set of circumstances has been, is, or is to be subject to the taking of enforcement action by the Director or a compliance officer.
- (2) If the Director of Compliance and Enforcement receives a notification under **subsection (1)**, they must notify the person in writing—
- (a) whether any enforcement action in respect of the incident, situation, or set of circumstances has been taken; and
- (b) if enforcement action has not been taken, whether the Director of Compliance and Enforcement of the water services entity or compliance officer intends to take enforcement action in respect of the incident, situation, or set of circumstances.

Compare: 2015 No 70 s 142; 2021 No 36 s 158

430 Prosecutions by Director of Compliance and Enforcement

Subject to **section 431**, a prosecution for an offence under this Act may be brought only by the Director of Compliance and Enforcement.

Compare: 2015 No 70 s 143; 2021 No 36 s 159

431 Private prosecutions

- (1) A person other than the Director of Compliance and Enforcement may file a charging document in respect of an offence under this Act if—
- (a) the Director of Compliance and Enforcement or a compliance officer has not taken, and does not intend to take, enforcement action against any person in respect of the same incident, situation, or set of circumstances; and
- (b) the person has received notification from the water services entity under **section 429(2)** that the Director of Compliance and Enforcement or a compliance officer—
- (i) has not taken enforcement action or prosecution action against any person in respect of the same incident, situation, or set of circumstances; and
- (ii) does not intend to take any enforcement action.

- (2) For the purposes of **subsection (1)**, if enforcement action or prosecution action cannot be taken against any person in respect of the same incident, situation, or set of circumstances because the person is dead, the Director of Compliance and Enforcement or compliance officer must be treated as intending to take enforcement action or prosecution action.

Compare: 2015 No 70 s 144; 2021 No 36 s 160

432 Continuing or repeated matters

Nothing in this Act prevents the Director of Compliance and Enforcement or another person from taking enforcement action in respect of an incident, situation, or set of circumstances, despite enforcement action having been taken in respect of that incident, situation, or set of circumstances, if the incident, situation, or set of circumstances is continuing or repeated.

Compare: 2015 No 70 s 145; 2021 No 36 s 161

Subpart 7—Limitation periods

433 Limitation period for prosecutions brought by Director of Compliance and Enforcement

- (1) Despite section 25 of the Criminal Procedure Act 2011, proceedings for an offence under this Act may be brought by the Director of Compliance and Enforcement within the later of the following periods to occur:
- (a) within 12 months after the date on which the incident, situation, or set of circumstances to which the offence relates first became known, or ought reasonably to have become known, to the Director of Compliance and Enforcement:
 - (b) within 6 months after the date on which a coroner completes and signs a certificate of findings under section 94 of the Coroners Act 2006 if it appears from the certificate of findings (or the proceedings of an inquiry) that an offence has been committed under this Act.

- (2) **Subsection (1)** applies subject to **section 435**.

Compare: 2015 No 70 s 146; 2021 No 36 s 162

434 Extension of time if Director of Compliance and Enforcement needs longer to decide whether to bring prosecution

- (1) This section applies if a Director of Compliance and Enforcement considers that they will not be able to file a charging document by the end of the period specified in **section 433(1)(a) or (b)**.
- (2) The District Court may, on application by the Director of Compliance and Enforcement made before the end of the relevant period specified in **section 433(1)(a) or (b)**, extend the time available for filing a charging document for a further period not exceeding 12 months from the date of expiry of that relevant specified period.

- (3) The court must not grant an extension under **subsection (2)** unless it is satisfied that—
- (a) the Director of Compliance and Enforcement reasonably requires longer than the relevant specified period to decide whether to file a charging document; and
 - (b) the reason for requiring the longer period is that the investigation of the events and issues surrounding the alleged offence is complex or time-consuming; and
 - (c) it is in the public interest in the circumstances that a charging document is able to be filed after the relevant specified period expires; and
 - (d) filing the charging document after the relevant specified period expires will not unfairly prejudice the proposed defendant in defending the charge.
- (4) The court must give the following persons an opportunity to be heard:
- (a) the Director of Compliance and Enforcement;
 - (b) the proposed defendant;
 - (c) any other person who has an interest in whether a charging document should be filed, being a person described in **section 429(1)**.

Compare: 2015 No 70 s 147; 2021 No 36 s 163

435 Certain proceedings may be brought after end of limitation period if fresh evidence discovered

Despite anything in **section 433 or 434**, the proceedings for an offence against this Act may be brought after the end of the applicable limitation period if fresh evidence relevant to the offence is discovered and the court is satisfied that the evidence could not reasonably have been discovered within that period.

Compare: 2015 No 70 s 149; 2021 No 36 s 164

Subpart 8—Defences for strict liability offences

436 Defences in prosecution for strict liability offence

- (1) This section applies in a prosecution for an offence against a section of this Act listed in the following table:

Section	Description
394	Negligently disposing of materials or substances into wastewater network
395	Connecting to, disconnecting from, or discharging into wastewater network without authorisation
398	Discharging trade waste without trade waste permit
399	Breach of trade waste permit

- | | |
|------------|---|
| 404 | Discharging into water supply network without authorisation |
| 408 | Breach of controlled drinking water catchment management plan |
| 412 | Failure to comply with direction issued by compliance officer |
| 413 | Failure to comply with compliance order or court order |
| 416 | Tampering with water meter |
- (2) The defendant has a defence if the defendant proves that—
- (a) the commission of the offence was due to—
 - (i) the act or omission of another person; or
 - (ii) an accident; or
 - (iii) some other cause outside the defendant’s control; and
 - (b) the defendant took all reasonable precautions and exercised due diligence to avoid the commission of the offence or offences of the same kind.
- (3) The defendant has a defence if the defendant proves that—
- (a) the action or event to which the prosecution relates was necessary for the purposes of preventing, avoiding, or mitigating a specified serious risk; and
 - (b) the conduct of the defendant was reasonable in the circumstances; and
 - (c) the defendant took steps that were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred.
- (4) For the purposes of this section, the court may take into account all relevant matters, including—
- (a) the likelihood of the hazard or risk concerned, including a specified serious risk, occurring; and
 - (b) the degree of harm that might result from the hazard or risk; and
 - (c) what the person concerned knows, or ought reasonably to know, about—
 - (i) the hazard or risk; and
 - (ii) ways of eliminating or minimising the risk; and
 - (d) the availability and suitability of ways to eliminate or minimise the risk.

Compare: 1996 No 30 s 117(2)(a); 2014 No 32 s 251; 2021 No 36 s 165

Subpart 9—Liability of certain persons

437 Liability of body corporate or unincorporated body

- (1) This section applies when—

- (a) a body corporate or an unincorporated body is charged with an offence against this Act; and
 - (b) for the purpose of the prosecution, it is necessary to establish the body corporate's or unincorporated body's state of mind.
- (2) It is sufficient to show that an officer, employee, or agent of the body corporate or unincorporated body, acting within the scope of their actual or apparent authority, had the state of mind.
- Compare: 2014 No 32 s 245; 2021 No 36 s 166

438 Liability of body corporate, unincorporated body, principal, or individual

- (1) This section applies when—
- (a) a body corporate or an unincorporated body is charged with an offence against this Act for an action or omission of an officer, employee, or agent:
 - (b) a principal is charged with an offence against this Act for an action or omission of an agent:
 - (c) an individual is charged with an offence against this Act for an action or omission of an employee or agent.
- (2) The action or omission is treated as also the action or omission of the body corporate, unincorporated body, principal, or individual.

Compare: 2014 No 32 s 246; 2021 No 36 s 167

439 Defence in prosecution of body corporate, principal, or individual

- (1) This section applies when a defendant's liability to prosecution arises under **section 438**.
- (2) The defendant has a defence if the defendant proves that the defendant took all reasonable steps to prevent the commission of—
- (a) the particular offence; or
 - (b) all offences of the class committed.
- (3) However, the defence set out in **subsection (2)** is available to a defendant only to the extent that it can be proved in relation to the action or omission of the relevant other person referred to in **section 438**, unless the court is satisfied that it would be repugnant to justice for that defence to be so limited, having regard to—
- (a) any likely or possible benefit accruing to, or detriment suffered by, the person or body corporate from the action or omission in respect of which the proceedings are brought if the alleged offence had remained undetected; and
 - (b) the purpose or motive of the relevant other person; and

- (c) the relationship between the defendant and the relevant other person, or between the defendant and any person appearing or likely to benefit from the alleged offence; and
- (d) if the defendant is a body corporate, whether any person responsible for, or closely associated with, the management of the body corporate appears to have benefited from the action or omission, or would have been likely to benefit if the alleged offence had remained undetected; and
- (e) whether the defendant had taken all reasonable steps and exercised due diligence to control the activities of the relevant other person to ensure that the action or omission did not occur.

Compare: 2004 No 32 s 254

Subpart 10—Sentencing for offences

440 Application of this subpart

This **subpart** applies if a court convicts a person (an **offender**) or finds an offender guilty of an offence under this Act or regulations made under this Act.

Compare: 2015 No 70 s 150; 2021 No 36 s 193

441 Sentencing criteria

- (1) This section applies when a court is determining how to sentence or otherwise deal with an offender convicted of an offence against this Act.
- (2) The court must apply the Sentencing Act 2002 and must have particular regard to—
 - (a) sections 7 to 10 of that Act; and
 - (b) the risk of, and the potential for, illness, injury, or death that could have occurred; and
 - (c) whether death, serious injury, or serious illness occurred or could reasonably have been expected to have occurred; and
 - (d) the risk of, and potential for damage to, the natural or a built environment that could have occurred; and
 - (e) whether the damage to the natural or a built environment occurred or could reasonably have been expected to have occurred; and
 - (f) the compliance record of the person (including, without limitation, any warning, direction, infringement notice, or compliance order issued to the person) to the extent that it shows whether any aggravating factor is present.

Compare: 2015 No 70 s 151; 2021 No 36 s 194

442 Order for payment of costs in bringing prosecution

- (1) On the application of the Director of Compliance and Enforcement, the court may order the offender to pay to the chief executive a sum that it thinks just and reasonable towards the costs of the prosecution (including the costs of investigating the offending and any associated costs).
- (2) If the court makes an order under **subsection (1)**, it must not make an order under section 4 of the Costs in Criminal Cases Act 1967.
- (3) If the court makes an order under **subsection (1)** in respect of a Crown organisation, any costs and fees awarded must be paid from the funds of that organisation.

Compare: 2015 No 70 s 152; 2021 No 36 s 195

443 Injunctions

If a court finds a person guilty of an offence against this Act, the court may issue an injunction requiring the offender to cease any particular conduct or action that constitutes a contravention of this Act or regulations made under this Act.

Compare: 2015 No 70 s 157; 2021 No 36 s 197

444 Supervision and training orders

- (1) The court may make an order requiring an offender to work under supervision for a period that the court specifies in the order.
- (2) The court may make an order requiring an offender to undertake, or arrange for 1 or more employees to undertake, a specified course of training.

Compare: 2015 No 70 s 158; 2021 No 36 s 198

445 Restriction or prohibition order

- (1) The court may make—
 - (a) a restriction order, which specifies the ways in which an offender is restricted in relation to the delivery of water services; or
 - (b) a prohibition order, which prohibits an offender from taking any action in relation to the delivery of water services.
- (2) The following provisions apply if the offender wants a restriction order or prohibition order to be cancelled:
 - (a) the offender may apply to the court to cancel the order;
 - (b) the application must be served on the Director of Compliance and Enforcement;
 - (c) an employee or agent of the water services entity may appear and be heard to help the court to determine whether to grant the application.
- (3) The court may—
 - (a) cancel the order from the date stated in the order; or

- (b) change the order from the date stated in the order; or
 - (c) change a prohibition order to a restriction order; or
 - (d) refuse the application, in which case the court may specify the earliest date on which the offender may make a further application for cancellation.
- (4) The court must take into account—
- (a) the nature of the offence of which the offender was convicted; and
 - (b) the steps taken (if any) to remedy the problem that resulted in the order; and
 - (c) the offender’s conduct since the order was made; and
 - (d) the offender’s character; and
 - (e) any other circumstances of the case.
- (5) If the court changes the order or refuses the application, the offender may again apply for cancellation—
- (a) once the date that the court specified under **subsection (3)(d)** has passed; or
 - (b) once there has been a material change in the offender’s circumstances.

Compare: 2014 No 32 s 273; 2021 No 36 s 199

Subpart 11—Review and appeals

Internal review

446 Application for internal review

- (1) This section applies in relation to the following directions or decisions:
- (a) any directions issued by a compliance officer appointed by a water services entity;
 - (b) a decision relating to a permit for a controlled catchment area, including any conditions or requirements of the permit;
 - (c) a decision relating to a trade waste permit, including any conditions or requirements of the permit;
 - (d) a decision relating to the application of a water infrastructure contributions policy;
 - (e) a decision to restrict water supply to land or a building.
- (2) A person affected by a direction or decision to which this section applies (a **reviewable decision**) or their representative may apply to the water services entity responsible for the direction or decision for an internal review of the directions or decision within—

- (a) 20 working days after the day on which the directions or decision first came to the affected person's notice; or
 - (b) any longer period that the water services entity allows.
- (3) The application must be made in the manner and form required by the water services entity.

Compare: 2015 No 70 s 131; 2021 No 36 s 89

447 Decision of water services entity

- (1) A water services entity must, on application under **section 446(2)**, review the reviewable decision and make a decision—
- (a) as soon as practicable; and
 - (b) in any case, within 20 working days after the application for internal review is received.
- (2) However, the individual who made the reviewable decision must not review the decision.
- (3) The water services entity's decision may—
- (a) confirm or vary the reviewable decision; or
 - (b) set aside the reviewable decision; or
 - (c) set aside the reviewable decision and substitute another decision that the water services entity considers appropriate.
- (4) The water services entity may seek further information from the applicant, and, if it does,—
- (a) the applicant must provide the information within the period (not less than 7 working days) specified by the water services entity in the request for information; and
 - (b) the period specified in **subsection (1)(b)** ceases to run until the applicant provides the information to the water services entity.
- (5) If the applicant does not provide the further information within the required time, the water services entity may make a decision on the internal review on the basis of the information it holds.
- (6) If the reviewable decision is not varied or set aside within the period specified in **subsection (1)(b)**, the decision is to be treated as having been confirmed by the water services entity.

Compare: 2015 No 70 s 132; 2021 No 36 s 90

448 Notice of decision on internal review

As soon as practicable after making a decision in accordance with **section 447**, the water services entity must give the applicant in writing—

- (a) the decision on the internal review; and

(b) the reasons for the decision.

Compare: 2015 No 70 s 133; 2021 No 36 s 91

449 Stay of reviewable decision on internal review

- (1) If an application is made for an internal review of a decision, a water services entity may stay the operation of the decision.
- (2) The water services entity may stay the operation of a decision—
 - (a) on its own initiative; or
 - (b) on the application of the applicant for review.
- (3) A water services entity must make a decision on an application for a stay within 3 working days after the date on which it receives the application.
- (4) If the water services entity has not made a decision on an application under **subsection (2)(b)** within the time specified in **subsection (3)**, the water services entity is to be treated as having made a decision to grant a stay.
- (5) A stay of the operation of a decision pending a decision on an internal review continues until the reviewer has made a decision on the review.

Compare: 2015 No 70 s 134; 2021 No 36 s 92

Appeals

450 Appeal

- (1) A person may appeal to the District Court against any of the following on the grounds that it is unreasonable:
 - (a) the water services entity's decision under **section 447** on an internal review;
 - (b) the whole or any part of a compliance order issued under **section 380**.
- (2) The appeal must be lodged within 20 working days after the day on which the decision first came to the person's notice or the compliance order was served on the person.
- (3) On an appeal under **subsection (1)**, the court must inquire into the decision or compliance order and may—
 - (a) confirm or vary the decision or compliance order; or
 - (b) in the case of a decision,—
 - (i) set aside the decision; or
 - (ii) set aside the decision and substitute another decision that the court considers appropriate; or
 - (c) in the case of a compliance order,—
 - (i) cancel the compliance order; or
 - (ii) cancel the compliance order and substitute another compliance order that the court considers appropriate; or

(d) refer the decision or compliance order back to the decision maker with the court's opinion, together with any directions as to how the matter should be dealt with.

(4) An internal review of a decision to restrict water supply to land or a building may not be appealed to the District Court.

Compare: 2015 No 70 s 135; 2021 No 36 s 93

451 Interim order by District Court

(1) At any time before the final determination of an appeal, the District Court may make an interim order.

(2) An interim order may be subject to any conditions that the District Court thinks fit.

(3) If the District Court makes an interim order, the Registrar of that court must send a copy of the order to the water services entity that made the reviewable decision or issued the compliance order.

Compare: 2013 No 148 s 23; 2021 No 36 s 94

452 Appeal to High Court

(1) A person may appeal to the High Court on a question of law only against a decision by the District Court that determines an appeal under **section 450(3)**.

(2) An appeal must be made by giving notice of appeal not later than 20 working days after the date on which notice of the decision was communicated to the appellant, or any further time that the High Court may allow.

(3) However, nothing in this section affects the right of any person to apply for judicial review.

Compare: 2013 No 148 s 22; 2021 No 36 s 95

453 Appeals to Court of Appeal or Supreme Court

(1) A party to an appeal under **section 452** may appeal to the Court of Appeal or the Supreme Court against any determination of the High Court on a question of law arising in that appeal, with the leave of the court appealed to.

(2) The Court of Appeal or the Supreme Court hearing an appeal under this section has the same power to adjudicate on the appeal as the High Court had.

(3) **Subsection (1)** is subject to section 75 of the Senior Courts Act 2016 (which provides that the Supreme Court must not give leave to appeal directly to it against a decision made in a court other than the Court of Appeal unless it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court).

Compare: 2021 No 36 s 96

454 Effect of appeal against compliance order

An appeal under **sections 450 to 453** against a compliance order has the following effects:

- (a) the Director of Compliance and Enforcement whose compliance order is appealed against must not revoke or amend the order while the order is the subject of an appeal or while the time for the person's appeal rights is running; and
- (b) an appeal against a compliance order does not operate as a stay of that order unless the court orders otherwise.

Compare: 1999 No 142 s 156H; 2021 No 36 s 97

Part 13 Miscellaneous provisions

Subpart 1—Reviews

455 Interim review of governance and accountability arrangements under Act

- (1) The Minister must, in the relevant period, commission a review of the need for, and the operation and effectiveness of, the governance and accountability arrangements under this Act.
- (2) ~~The relevant period starts on the fifth anniversary, and ends on the sixth anniversary, of the establishment date (as defined in clause 1 of Schedule 1).~~
- (2) The relevant period starts on **1 July 2030** and ends on **1 July 2031**.
- (3) The interim review required by this section must include consideration of the following matters:
 - (a) governance structures, and related roles and responsibilities, under this Act:
 - (b) the interaction of each water services entity's regional representative group with the following:
 - (i) the water services entity's board:
 - (ii) territorial authority owners:
 - (iii) mana whenua in the water services entity's service area:
 - (iv) consumers and communities in the water services entity's service area:
 - (c) the interaction of each water services entity with the following:
 - (i) territorial authority owners:
 - (ii) mana whenua in the water services entity's service area:
 - (iii) consumers and communities in the water services entity's service area:

- (iv) the water services entity's consumer forums:
 - (d) each water services entity's—
 - (i) relationships with financiers; and
 - (ii) financing arrangements:
 - (e) accountability, strategic direction, or planning or reporting mechanisms, including each—
 - (i) Government policy statement:
 - (ii) regional representative group's statement of strategic and performance expectations:
 - (iii) Te Mana o te Wai statement for water services:
 - (iv) statement of intent:
 - (v) other planning or reporting document under this Act:
 - (f) each water services entity's constitution, including amendments to it, or its replacement:
 - (g) any other relevant matters identified by the Minister.
- (4) Before commissioning the review required by this section, the Minister must consult any other Ministers of the Crown (for example, any whose portfolio responsibilities are affected by or relevant to the review) that the Minister thinks fit.

456 Comprehensive review of water services legislation

- (1) The Minister must, in the relevant period, commission a review of the need for, and operation and effectiveness of, water services legislation.
- (2) ~~The relevant period starts on the ninth anniversary, and ends on the tenth anniversary, of the establishment date (as defined in clause 1 of Schedule 1).~~
- (2) The relevant period starts on **1 July 2035** and ends on **1 July 2036**.
- (3) The comprehensive review required by this section must include consideration of the following:
 - (a) this Act and any legislation made under it, plus each water services entity's constitution:
 - (b) the Taumata Arowai—the Water Services Regulator Act 2020 and any legislation made under that Act:
 - (c) the Water Services Act 2021 and any legislation made under that Act:
 - (d) any legislation relating to the economic regulation of, or to consumer protection in respect of, water services:
 - (e) the interaction of relevant regulators and relevant regulatory systems:
 - (f) oversight, monitoring, and stewardship arrangements:
 - (g) any other relevant matters identified by the Minister.

- (4) Before commissioning the review required by this section, the Minister must consult any other Ministers of the Crown (for example, any whose portfolio responsibilities are affected by or relevant to the review) that the Minister thinks fit.

457 Reviewer

A review required by this subpart must be done by the following reviewer:

- (a) the monitor, if the monitor is asked by the Minister to do the review:
- (b) in any other case, a review panel commissioned by or on behalf of the Minister.

458 Reviewer's power to request information

- (1) The reviewer may, by notice in writing, require a water services entity or other relevant person (other than an officer of Parliament) to provide the reviewer with information the reviewer thinks necessary to do the review.
- (2) The water services entity or other relevant person must provide the requested information by the reasonable date that the reviewer has specified for that purpose in the notice.
- (3) Sections 176 to 178 apply, with all necessary modifications, to a request under this section.

459 Report

- (1) The reviewer must prepare a report on a review required by this subpart.
- (2) The report must include at least the following:
 - (a) any terms of reference, consistent with **section 457 or 458**:
 - (b) the process that was followed:
 - (c) the issues that were examined:
 - (d) the key findings:
 - (e) any recommendations arising out of the review, including—
 - (i) whether any amendments to any of the legislation reviewed are necessary or desirable:
 - (ii) any other matters that the reviewer recommends be considered by the Minister.
- (3) The reviewer must ensure that the people and organisations that the reviewer thinks appropriate are consulted, during the preparation of the report, about the matters to be considered in the report.
- (4) The reviewer must, after completing the report, promptly present the report to the Minister.
- (5) The Minister must, after receiving the report, promptly present a copy to the House of Representatives.

460 Repeal of this subpart

This **subpart** is repealed on the 15th anniversary of the establishment date (as defined in clause 1 of Schedule 1) **1 July 2041**.

Subpart 2—Engagement, publication, and review requirements

461 Engagement requirements

- (1) This section applies to engagement that a water services entity or the Minister must undertake in accordance with any of the following provisions:
- (aaa) **section 6A(5B)** (relating to setting by Order in Council establishment dates under **section 6A** for 1 or more water services entities):
 - (a) section 120(2) (relating to joint arrangements, or joint water services entity arrangements, for the purpose of providing water services):
 - (b) section 134(b) (relating to preparation or review of a Government policy statement):
 - (ba) **section 137B(1)** (relating to giving a direction under **section 137A** for shared services):
 - (c) ~~section 145(1)(b)~~ **section 144(1)(b)** (relating to preparation of a response to a Te Mana o te Wai statement for water services):
 - (ca) section 153 (relating to asset management plans):
 - (cb) section 156 (relating to funding and pricing plans):
 - (cc) section 159 (relating to infrastructure strategies):
 - (d) **section 232A** (relating to controlled drinking water catchment management plans):
 - (daa) **section 236** (relating to rural supply plans for small mixed-use rural water supplies):
 - (da) **section 247** (relating to water services assessments):
 - (db) **section 252D** (relating to stormwater management strategies):
 - (g) **section 271** (relating to trade waste plans):
 - (h) **section 277** (relating to water supply and wastewater services rules):
 - (i) **section 281** (relating to service agreements):
 - (j) **section 286** (relating to specified classes of work):
 - (k) **section 295** (relating to ~~water infrastructure connection and disconnection requirements~~ development codes):
 - (m) **section 355** (relating to compliance and enforcement strategy):
 - (n) **section 473A** (relating to reporting and record-keeping rules):
 - (o) **section 474(1)(a) and (2)** (relating to regulations providing for a model constitution):

- (oa) **clause 12 of Schedule 2A** (relating to whether a finalised merger proposal should be implemented):
- (p) clauses 1, 7, 14, and 19 of Schedule 3 (relating to statements of intent, asset management plans, funding and pricing plans, and infrastructure strategies).
- (2) **Engagement** requires that a water services entity or the Minister do either or both of the following before deciding on a matter:
- (a) consult on a proposal:
- (b) seek input, on an iterative basis, during the formulation of a proposal, or feedback on a proposal.
- (3) Input or feedback may be sought via hui or meetings, social media, or any other forum that the water services entity or the Minister thinks appropriate.
- (4) In undertaking an approach to engagement on a matter, a water services entity or the Minister—
- (a) must consider the purpose of the engagement; and
- (b) must consider the needs of the particular person or persons with whom the water services entity is engaging; and
- (c) must allow adequate time for engagement to occur and for a response or responses from the particular person or persons with whom the water services entity or the Minister is engaging; and
- (d) may consider the relevance and sufficiency of any earlier engagement.
- (5) In addition, the water services entity and the Minister must ensure that engagement has been carried out before secondary legislation referred to in **subsection (1)(d) to (n)** is made.
- (6) For the purposes of **subsection (5)**, the engagement must include—
- (a) giving adequate and appropriate notice of the content of the proposed instrument; and
- (b) providing a reasonable opportunity for interested persons to make submissions on the proposed instrument; and
- (c) appropriate consideration of any submissions received.
- (7) Despite **subsection (6)**, the water services entity and the Minister need not conduct engagement if satisfied that—
- (a) the instrument needs to be made urgently; or
- (b) an amendment to the instrument is minor and will not adversely and substantially affect the interests of any person.

Compare: 2020 No 42 s 22

462 Principles of engagement with consumers and communities

- (1) This section applies when a water services entity is performing its functions under any of the following:
- (aaa) section 120 (relating to joint arrangements):
 - (aab) section 134 (relating to Government policy statements):
 - (a) sections 151 to 159 (relating to planning: asset management plans, funding and pricing plans, and infrastructure ~~strategy strategies~~):
 - (b) **section 232** (relating to controlled drinking water catchment management plans):
 - (baa) **section 236** (relating to rural supply plans for small mixed-use rural water supplies):
 - (bab) **section 252D** (relating to stormwater management strategies):
 - (ba) **section 247** (relating to water services assessments):
 - (e) **section 271** (relating to trade waste plans):
 - (f) **section 277** (relating to ~~water usage restrictions rules and consumer behaviour~~ supply and wastewater services rules):
 - (g) **sections 281 and 282** (relating to consultation and publication requirements for service agreements):
 - (h) **section 286** (relating to rules that regulate specified classes of work):
 - (i) **section 295** (relating to ~~water services infrastructure connection requirements~~ development codes):
 - (ia) **section 355** (relating to compliance and enforcement strategies):
 - (k) **section 464** (relating to consumer engagement stocktake):
 - (l) **section 473** (relating to reporting and record-keeping rules).
- (2) The water services entity must be guided and informed by the following principles:
- (a) the water services entity's communication to consumers and communities should be clear and appropriate and recognise the different communication needs of consumers and communities:
 - (b) the water services entity should be openly available for consumer and community feedback and seek a diversity of consumer voices:
 - (c) the water services entity should clearly identify and explain the role of consumers and communities in the engagement process:
 - (d) the water services entity should consider the changing needs of consumers and communities over time and ensure that engagement will be effective in the future:

- (e) the water services entity should prioritise the importance of consumer and community issues to ensure that the water services entity is engaging with issues that are important to its consumers and communities.

Consumer engagement

463 Consumer forum

- (1) The chief executive of a water services entity must establish a consumer forum.
- (2) The purposes of a consumer forum are to—
- (a) assist with effective and meaningful consumer and community engagement; and
 - (b) gather and compile consumer views; and
 - (c) assist the water services entity to understand consumer needs, expectations, and service requirements; and
 - (ca) assist the water services entity’s regional representative group and, through that group, the entity, to understand views and priorities—
 - (i) about 1 or more water bodies in the entity’s service area; and
 - (ii) stated in 1 or more community priority statements for water services (see **subpart 4A** of Part 4); and
 - (d) reflect and represent the interests and diversity of consumers throughout the water services entity’s region.
- (3) A consumer forum may be established under this section—
- (a) for the whole or part of a service area; and
 - (b) in relation to all, or a particular class of, consumers.
- (3A) The chief executive of a water services entity must ensure that each of its consumer forums achieves equitable and reasonable representation of metropolitan, provincial, and rural communities, and mana whenua in its service area.
- (4) The chief executive of the water services entity must provide a guidance document to each consumer forum established under this section that provides for the composition and procedures of the forum, including—
- (a) the intervals between meetings; and
 - (b) the number of members that may be on the forum; and
 - (c) the method of selecting forum members; and
 - (d) any purposes additional to those set out in **subsection (2)**; and
 - (e) the roles and responsibilities of forum members; and
 - (f) the term of membership of the forum; and
 - (g) any other matters not inconsistent with the purposes of a consumer forum under this section.

- (5) The chief executive must ensure that each consumer forum established has a guidance document.

464 Consumer engagement stocktake

- (1) The chief executive of a water services entity must prepare a consumer engagement stocktake annually, and not later than 3 months before the end of a financial year, in respect of consumers and communities in the service area of the water services entity.
- (2) The purpose of a consumer engagement stocktake is to—
- (a) capture consumer and community feedback on, and satisfaction with, how the water services entity is performing; and
 - (b) set out how the water services entity is to respond to consumer and community needs and address consumer and community concerns; and
 - (c) set out how the water services entity will respond to views and priorities—
 - (i) about 1 or more water bodies in the water services entity’s service area; and
 - (ii) stated in 1 or more community priority statements for water services (see **subpart 4A** of Part 4).
- (3) A consumer engagement stocktake must cover,—
- (a) for the first consumer engagement stocktake, the period from the water services entity’s establishment date (as defined in clause 1 of Schedule 1); and
 - (b) for later consumer engagement stocktakes, the period since the last consumer engagement stocktake.
- (4) A consumer engagement stocktake must contain a report from the Auditor-General on—
- (a) whether the stocktake gives effect to its purpose stated in **subsection (2)**; and
 - (b) whether the water services entity, in preparing the stocktake, has given effect to the principles of engagement in **section 462**.
- (5) The chief executive must, by the end of a financial year, make the consumer engagement stocktake publicly available as soon as practicable after it is issued by publishing a copy on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible.

Report on engagement

465 Report on engagement

- (1) This section applies when a water services entity or the Minister is undertaking engagement in accordance with a provision referred to in **section 461(1)**.

- (2) The water services entity or the Minister must, as soon as practicable after finalising any relevant statement, response, plan, strategy, or secondary legislation (**specified document**),—
- (a) prepare a report on how input into, and feedback on, the specified document was considered and incorporated into the specified document; and
 - (b) publish the report on an Internet site maintained by, or on behalf of, the water services entity in a format that is readily accessible.

Review requirements

466 Review requirements

- (1) The board of a water services entity must review a specified document within 5 years from the date on which the specified document is finalised and at least once every 5 years after a previous review.
- (2) The board may amend or replace a specified document at any time.

Subpart 4—Financial arrangements

469 Charges as security

- (1) This section applies if—
 - (a) a water services entity has granted a security interest over a charge or charging revenue as security for any loan or the performance of any obligations under an incidental arrangement; and
 - (b) a receiver has been appointed under section 40A or 40B of the Receiverships Act 1993 in respect of that loan or arrangement; and
 - (c) the monitor has been informed of the appointment.
- (2) The receiver may, without further authority than this section, assess and collect in each financial year a charge under this section to recover sufficient funds to meet—
 - (a) the payment of the water services entity’s commitments in respect of the loan or incidental arrangement during that year; and
 - (b) the reasonable costs of administering, assessing, and collecting the charge.
- (3) However, a receiver may not create, or receive, any interest or security in water services infrastructure.
- (4) A charge under this section must be assessed as a uniform charge in the dollar on the water services charges of a property—
 - (a) in the service area; or
 - (b) if the water services entity resolved that, at the time when the loan was being raised or the incidental arrangement was being entered into, it was for the benefit of only a specified area, that area.

- (5) A charge under this section over any 1 or more of the assets of a water services entity is subject to section 40D(5) and (6) of the Receiverships Act 1993.

Compare: 2002 No 84 ss 114, 115

470 Crown may lend money to water services entity

- (1) The Minister, on behalf of the Crown, may lend money to a water services entity if—
- (a) the Minister considers that—
- (i) it is necessary or expedient in the public interest to do so; and
- (ii) it is necessary to meet an exceptional and temporary liquidity shortfall affecting the water services entity; and
- (b) the money is lent on commercial terms.

- (2) The Minister may lend money under **subsection (1)** without further appropriation than this section.

- (3) In this section, **Minister** has the meaning given by section 2(1) of the Public Finance Act 1989.

Compare: 2011 No 77 s 15

Subpart 5—Information provisions

471 Requirement to provide information to territorial authority for purposes of land information memorandum

- (1) This section applies for the purposes of enabling a territorial authority to issue a land information memorandum under section 44A of the Local Government Official Information and Meetings Act 1987 in relation to any land in the district of the authority.
- (2) A water services entity must, as soon as is reasonably practicable, provide a territorial authority with all information the water services entity holds relating to the matters set out in section 44A(2)(b) and (2)(bb)(i) of that Act in relation to the land.
- (3) A water services entity must notify the territorial authority of any change in the information provided under this section as soon as practicable after it changes.

472 Requirement to provide information to territorial authority for purposes of project information memorandum

- (1) This section applies for the purposes of enabling a territorial authority to issue a project information memorandum under section 34 of the Building Act 2004.
- (2) A water services entity must provide a territorial authority with all information the water services entity holds relating to the matters set out in section 35(1)(c) of that Act.

- (3) A water services entity must notify the territorial authority of any change in the information provided under this section as soon as practicable after it changes.

473 Reporting and record-keeping rules

- (1) The board of a water services entity may make reporting and record-keeping rules.
- (2) The rules may specify reporting and recording keeping obligations that must be met to verify a person's compliance with—
- (a) a direction issued under this Act by a compliance officer;
 - (b) an order issued under this Act by the chief executive of a water services entity or a court;
 - (c) a trade waste permit;
 - (d) a controlled drinking water catchment management plan;
 - (e) an authorisation that the water services entity has given under this Act;
 - (f) this Act and regulations or rules made under this Act.
- (5) Rules made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

473A Engagement on reporting and record-keeping rules

- (1) The board of the water services entity must, when developing (or considering changes to) reporting and record-keeping rules, engage with interested persons.
- (2) In conducting the engagement, the board of a water services entity must—
- (a) comply with **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**.
- (3) The board of a water services entity must—
- (a) prepare and publish a report on how feedback was incorporated into the rules in accordance with **section 465**; and
 - (b) review the rules in accordance with **section 466**.

Subpart 6—Regulations

474 Regulations: general

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
- Model constitution*
- (a) providing for a model constitution for the purposes of section 96:
- Disclosure requirements*
- (b) providing for financial and non-financial disclosure requirements relating to the statement of intent, asset management plan, funding and pricing

ing plan, and infrastructure strategy that are consistent with generally accepted accounting practice:

Waivers and refunds

- (d) providing a framework for the waiver or refund by the chief executive of a water services entity of any water service debt due under this Act, including (without limitation)—
 - (i) prescribing or determining any class or classes of persons eligible for a waiver or refund:
 - (ii) setting the criteria for granting a waiver or refund:

Infringement offences

- (e) identifying the offences against this Act or obligations specified in or under secondary legislation made under this Act that are infringement offences for the purposes of this Act:
- (f) prescribing infringement notices, infringement reminder notices, and infringement forms of any other kind:
- (g) prescribing the amounts, up to a maximum of \$1,000 for an individual and \$3,000 for a body corporate or an unincorporated body, of infringement fees that are payable for infringement offences, including different fees for a first offence, a second offence, and subsequent offences:

Updating Schedule 2

- (h) changing the name of a water services entity by amending or replacing the references to that water services entity in Schedule 2:

General

- (i) providing for anything this Act says may or must be provided for by regulations:
 - (j) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.
- (2) The Minister must, before recommending the making of regulations under **subsection (1)(a)** in relation to a water services entity, engage in accordance with ~~section 461~~ in relation to the regulations with the territorial authority owners of the water services entity and mana whenua of the service area.
- (2A) In conducting the engagement, the Minister must—
- (a) comply with **section 461**; and
 - (b) prepare and publish a report on the engagement in accordance with **section 465**.
- (3) ~~Regulations made under **subsection (1)(a)** in relation to a water services entity must, despite sections 27(2) and 93(a)(i), provide that the water services entity's regional representative group consists of a number of regional representatives that is—~~

- (a) at least 12; and
 - (b) no more than 18.
- (4) However, **subsection (3)** does not limit sections 27(2) and 93(a)(i) when the water services entity's model constitution is amended or replaced under section 97.
- (3) Regulations made under **subsection (1)(a)** in relation to the Northland and Auckland Water Services Entity must, despite sections 27(2) and (4) and 93(a)(i), provide that the entity's regional representative group consists of only the following regional representatives:
- (a) 4 Auckland Council representatives:
 - (b) 4 mana whenua representatives appointed in respect of Tāmaki Makaurau (and that area, in this paragraph, means the district of the territorial authority in **paragraph (a)**):
 - (c) 1 representative each from Far North District Council, Kaipara District Council, and Whangarei District Council:
 - (d) 3 mana whenua representatives appointed in respect of Te Tai Tokerau (and that area, in this paragraph, means the districts of the territorial authorities in **paragraph (c)**.
- (4) However, **subsection (3)** does not limit sections 27(2) and (4) and 93(a)(i) when the water services entity's model constitution is amended or replaced under section 97.
- (5) Regulations made under **subsection (1)(b)** may include requirements relating to—
- (a) the type of information that must be provided; and
 - (b) the frequency of the reporting.
- (5A) The Minister must, as soon as practicable after the end of each period of 5 years after the commencement of this section,—
- (a) commence a review of regulations made under **subsection (1)(d)** (relating to waivers and refunds); and
 - (b) consider whether amendments to the regulations are necessary or desirable.
- (7) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

475 Regulations: volumetric charging

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for 1 or both of the following purposes:
- (a) prohibiting or limiting the use of a variable volumetric charge for residential consumers:

- (b) setting, on or after ~~1 July 2027~~ **1 July 2029**, the maximum proportion of total revenues for the provision of water supply or wastewater services to residential consumers that may be recovered by a water services entity through volumetric charging.
- (2) The Minister must, before recommending the making of regulations under this section, be satisfied that appropriate consultation has taken place with—
 - (a) the boards of the relevant water services entities:
 - (b) relevant regional representative groups:
 - (c) the Commission.
- (3) Regulations made under this section may apply to 1 or more water services entities.
- (4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Subpart 7—Other matters

475A Delegation by chief executive of water services entity

- (1) The chief executive of a water services entity may delegate any of their functions or powers under this Act to any employee of the water services entity.
- (2) A person to whom any functions or powers are delegated may perform those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by delegation (subject to any general or special directions given or conditions imposed by the chief executive of the water services entity).
- (3) A delegation under this section—
 - (a) must be in writing signed by the chief executive of the water services entity; and
 - (b) is revocable at will in writing signed by the chief executive of the water services entity.
- (4) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.
- (5) A delegation does not prevent the chief executive of the water services entity from performing any function or exercising any power or affect the chief executive's responsibility for the actions of any person acting under the delegation.
- (6) If the chief executive of the water services entity ceases to hold office, the delegation continues to have effect as if it were made by their successor in office.
- (7) The chief executive of the water services entity must not delegate the power of delegation under this section.

Compare: 2021 No 36 s 203

475B Application of Schedule 6

Schedule 6 applies to the transfer of small mixed-use rural water supplies.

476 Relationship with local Acts

If there is any inconsistency between the provisions of this Act and the provisions of any local Act, this Act prevails.

23 Schedule 1 amended

(1AA) In Schedule 1, clause 1, replace the definitions of **establishment date** and **establishment period** with:

establishment date, for a water services entity, has the meaning set out in **section 6(1)**

establishment period, for a water services entity, has the meaning set out in **section 6(1)**

- (1) In Schedule 1, clause 3(b), delete “(because only after that period will a model constitution for the purposes of section 96 be provided for by regulations made under section 210(1)(a))”.
- (1A) In Schedule 1, clause 5(3)(a) and (b), after “assets, liabilities, and other matters”, insert “(or categories of assets, liabilities, and other matters)”.
- (1B) In Schedule 1, clause 5(4), replace “assets, liabilities, and other matters (whether specified in subclause (3)(a) and (b) or otherwise)” with “assets, liabilities, and other matters (or categories of assets, liabilities, and other matters), whether specified in subclause (3)(a) and (b) or otherwise,”.
- (1C) In Schedule 1, after clause 5(7), insert:
- (8) However, the ~~chief executive~~ **establishment board** may redact any information from the allocation schedule that ~~the chief executive~~ **it** considers is commercially sensitive.
- (2) In Schedule 1, replace clause 7(2) with:
- (2) The Minister’s additional role includes functions and powers to—
- (a) appoint and remove members of the board of each water services entity under this schedule; and
- (b) approve an allocation schedule for a water services entity prepared under this schedule.
- (3) In Schedule 1, clause 8(3), replace “section 206” with “**section 461**”.
- (3) In Schedule 1, clause 8(3), delete “in accordance with section 206”.
- (3A) In Schedule 1, after clause 8(3), insert:
- (3A) In conducting the engagement, the Minister must—
- (a) comply with **section 461**; and
- (b) be guided and informed by the principles set out in **section 462**; and

(c) prepare and publish a report on the engagement in accordance with **section 465**.

(3B) In Schedule 1, **clause 8A(2)(b)**, replace “**206(1)(ba) and 206A**” with “**461(1)(ba) and 465**”.

(3C) in Schedule 1, **clause 8A(3)**, replace “section 206” with “**section 461**”.

(3D) In Schedule 1, repeal clause 15(6)(a).

(3E) In Schedule 1, **clause 16A(2)**, replace “section 208” with “**section 464**”.

(3F) In Schedule 1, before clause 17, insert:

16B Clauses 17, 18, and 22 apply only for specified period

(1) This clause applies to powers or functions conferred, or duties imposed, by clauses 17, 18, and 22.

(2) Those powers or functions may be exercised, and those duties may be carried out, only for the period that—

(a) starts on the day after the date of Royal assent of the **Water Services Legislation Act 2023**; and

(b) ends on **1 July 2026**.

(3) This clause does not limit any duty to carry out, on or after **1 July 2026**, those duties to be carried out during that specified period.

(3G) In Schedule 1, clause 17(1) and (5), replace “establishment period” with “period specified in **clause 16B(2)**”.

(3H) In Schedule 1, clause 18(1), replace “establishment period” with “period specified in **clause 16B(2)**”.

(3I) In Schedule 1, clause 22,—

(a) heading to clause 22, replace “**establishment**” with “**specified**”:

(b) clause 22(1), replace “establishment period” with “period specified in **clause 16B(2)**”.

(4) In Schedule 1, clause 19(1), replace “section 210(1)(b)” with “**section 474(1)(b)**”.

(4A) In Schedule 1, after clause 23(1), insert:

(1A) However, the chief executive of the department may authorise 1 or more of the following to offer an employment position under subclause (1):

(a) the chief executive of a subsidiary:

(b) the chief executive of an entity (other than an entity described in subclause (1)).

(4AB) In Schedule 1, replace clause 30(3) with:

(3) In subclause (2), **annual plan**, of a local authority, has the same meaning as in section 5(1) of the Local Government Act 2002.

(4AC) In Schedule 1, **clause 30A**,—

- (a) heading to **clause 30A**, replace “2-year” with “specified”;
- (b) **clause 30A(2)(a)**, replace “1 July 2024” with “the day after the date of Royal assent of the **Water Services Legislation Act 2023**”;
- (c) **clause 30A(3)**, replace “2-year” with “specified”.

(4AD) In Schedule 1, **clause 31**,—

- (a) heading to clause 31, replace “2-year” with “specified”;
- (b) clause 31(1), delete “2-year”;
- (c) clause 31(2), replace “2-year” with “specified”.

(4AE) In Schedule 1, **clause 32**,—

- (a) heading to clause 32, replace “2-year” with “specified”;
- (b) clause 32(3), delete “2-year”.

(4B) In Schedule 1, **clause 36(1)**, replace “On or before the establishment date,” with “After the a water services entity’s establishment date but by no later than the fifth anniversary of that date.”

(5) In Schedule 1,—

- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

23A Schedule 2A amended

- (1) In **Schedule 2A, clause 12(1)**, replace “sections 206 and 209” with “**sections 461 and 462**”.
- (2) In **Schedule 2A, clause 12(2)**, replace “sections 206 and 209” with “**sections 461 and 462**”.

24 Schedule 3 amended

- (1) In Schedule 3, clause 1(3), replace “section 206” with “**section 461**”.
- (2) In Schedule 3, clause 7, replace “section 206” with “**section 461**”.
- (4) In Schedule 3, clause 8(2)(a), replace “section 206” with “**section 461**”.
- (5) In Schedule 3, clause 13, replace “section 206” with “**section 461**”.
- (7) In Schedule 3, clause 14(2)(a), replace “section 206” with “**section 461**”.
- (8) In Schedule 3, clause 19, replace “section 206” with “**section 461**”.
- (10) In Schedule 3, clause 20(2)(a), replace “section 206” with “**section 461**”.

24 Schedule 3 amended

- (1) In Schedule 3, clause 1(3), delete “in accordance with section 206”.
- (2) In Schedule 3, after clause 1(3), insert:
- (4) In conducting the engagement, the board of the water services entity must—

- (a) comply with **section 461**; and
 - (b) prepare and publish a report on the engagement in accordance with **section 465**.
- (3) In Schedule 3, clause 7, delete “in accordance with section 206”.
- (4) In Schedule 3, clause 7, insert as subclause (2):
- (2) In conducting the engagement, the board of the water services entity must—
 - (a) comply with **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.
- (5) In Schedule 3, clause 8(2)(a), replace “section 206” with “section 461”.
- (6) In Schedule 3, clause 13, delete “in accordance with section 206”.
- (7) In Schedule 3, clause 13, insert as subclause (2):
- (2) In conducting the engagement, the board of the water services entity must—
 - (a) comply with **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.
- (8) In Schedule 3, clause 14(2)(a), replace “section 206” with “**section 461**”.
- (9) In Schedule 3, clause 19, delete “in accordance with section 206”.
- (10) In Schedule 3, clause 19, insert as subclause (2):
- (2) In conducting the engagement, the board of the water services entity must—
 - (a) comply with **section 461**; and
 - (b) be guided and informed by the principles set out in **section 462**; and
 - (c) prepare and publish a report on the engagement in accordance with **section 465**.
- (11) In Schedule 3, clause 20(2)(a), replace “section 206” with “**section 461**”.

25 Schedule 5 replaced

Replace Schedule 5 with the **Schedules 5 and 6** set out in **Schedule 2** of this Act.

Part 2

Amendments to and repeal of other legislation

Subpart 1AA—Amendments to Chatham Islands Council Act 1995

25A Principal Act

This subpart amends the Chatham Islands Council Act 1995.

25B New section 28A and cross-heading inserted

After section 28, insert:

Legislation related to local government and to provision of water services or to water services infrastructure

28A Specified legislation continues to apply to Territory and Council

Specified legislation continues to apply

- (1) On and after 1 July 2024, the specified legislation continues to apply to the Chatham Islands Territory, and to the territorial authority to be known as the Chatham Islands Council constituted for that Territory, because that Territory—
- (a) is not part of a service area of a water services entity under the Water Services Entities Act 2022; and
- (b) is not subject to that Act and to related amendments to other legislation.
- (2) **Subsection (1)** applies despite anything to the contrary in any other legislation.

Specified legislation

- (3) The **specified legislation** means the legislation that this section, or that regulations made under this section, provides is included in the specified legislation for the purposes of this section, as that legislation—
- (a) is in force immediately before (even if amended or repealed on, or after) 1 July 2024; and
- (b) relates, or to the extent that it relates, to the provision of water services or to water services infrastructure (as those terms are defined in **section 6(1)** of the Water Services Entities Act 2022); and
- (c) if applicable, is modified for the purposes of this section (for example, by regulations made under this section) on or after 1 July 2024.

Local Government Act 2002

- (4) For the purposes of this section, the specified legislation includes the following provisions of the Local Government Act 2002:
- (a) sections 5(2), 75(f), 85(2), 93(7)(b), 95(6)(c), 98(1), and 99A(1) (long-term plans, annual plans, and annual reports):

- (b) section 8A (application, savings, and transitional provisions):
 - (c) section 17 (transfer of responsibilities):
 - (d) section 17A (delivery of services):
 - (e) section 101B (infrastructure strategy):
 - (f) Part 7, subpart 1 (specific obligations to make assessments of drinking water, wastewater, and sanitary services and to ensure communities have access to safe drinking water):
 - (g) Part 7, subpart 2 (obligations and restrictions relating to provision of water services):
 - (h) sections 143, 146, 148, 149, and 153 (bylaws):
 - (i) sections 181, 182, 193, 189, and 193 (powers in relation to private land):
 - (j) sections 197, 199F, and 199L (environment contributions commissioners):
 - (k) Part 9, sections 224 to 228, and 232 (offences):
 - (l) Schedule 1AA (application, savings, and transitional provisions):
 - (m) Schedule 10 (long-term plans, annual plans, and annual reports).
- Local Government Act 1974*
- (5) For the purposes of this section, the specified legislation includes the following provisions of the Local Government Act 1974:
- (a) Part 21 (Roads (other than regional roads), service lanes, and access ways):
 - (b) sections 379, 380, 402, 426, 433, 445, 454, 477, 501B, 516, and 522(1)(c) and (d) (provisions as to constructing or maintaining water-works, drainage works, trade wastes systems, and drainage channels, and laying gas pipes or electricity cables, and erecting poles on roads and works not under the control of the council):
 - (c) section 517 (bylaws for protection of land drainage works):
 - (d) Part 29A (divestment of land drainage schemes and water race schemes):
 - (e) section 647 (fire hydrants):
 - (f) section 648 (pipes to be kept charged with water):
 - (g) Schedule 14 (provisions relating to drainage works and drainage channels on roads and works not under control of council).
- Local Government (Rating) Act 2002*
- (6) For the purposes of this section, the specified legislation includes the following provisions of the Local Government (Rating) Act 2002:
- (a) section 5A (transitional, savings, and related provisions):
 - (b) section 9 (non-rateable land liable for certain rates):

- (c) section 18 (calculating liability for targeted rate):
- (d) section 19 (targeted rate for water supply):
- (e) section 19A (rates not to overlap with targeted rates under Urban Development Act 2020):
- (f) section 21 (rating units of Māori freehold land used as a single unit):
- (g) Schedule 1AA (transitional, savings, and related provisions):
- (h) Schedule 3 (factors that may be used in calculating liability for targeted rates).

Health Act 1956

- (7) For the purposes of this section, the specified legislation includes the following provisions of the Health Act 1956:
- (a) section 2A (transitional, savings, and related provisions):
 - (b) section 25 (local authority to provide sanitary works):
 - (c) section 27A (grants and subsidies for refuse disposal works, sewerage works, and water supplies):
 - (d) section 33 (proceedings in respect of nuisances):
 - (e) section 34 (power to abate nuisance without notice):
 - (f) section 35 (proceedings when nuisance caused by default outside district):
 - (g) section 64 (bylaws):
 - (h) sections 116C, 116D, 116G, 116H, 116I, and 116J (fluoridation of drinking water):
 - (i) Schedule 1AA (transitional, savings, and related provisions).

Urban Development Act 2020

- (8) For the purposes of this section, the specified legislation includes the following provisions of the Urban Development Act 2020:
- (a) section 9 (interpretation):
 - (b) section 62 (further contents of development plan: funding):
 - (c) section 68 (documents and other matters relevant to preparation of development plan):
 - (d) sections 160, 161, 164, and 167 (water-related infrastructure):
 - (e) section 179 (by-law making authorities must consult Kāinga Ora on certain proposals):
 - (f) section 186 (Order in Council may authorise Kāinga Ora to set rates):
 - (g) section 189 (procedure for setting rates).

Water Services Act 2021

- (9) For the purposes of this section, the specified legislation includes section 140 (monitoring and reporting on environmental performance of networks: interpretation) of the Water Services Act 2021.

Regulations

- (10) The Governor-General may, by Order in Council, make regulations for the purposes of this section and that do all or any of the following:
- (a) provide that legislation specified in the regulations is or is not included in the specified legislation for the purposes of this section; and
 - (b) provide that all or any specified legislation for the purposes of this section is modified for the purposes of this section.
- (11) Regulations made under this section—
- (a) may be inconsistent with **subsections (4) to (9)**; and
 - (b) are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

Subpart 1—Amendments to Civil Defence Emergency Management Act
2002

26 Principal Act

This subpart amends the Civil Defence Emergency Management Act 2002.

27 Section 94A amended (Minister may give notice of national transition period)

~~In section 94A(3)(c), replace “Group and any local authority” with “Group, local authority, and water services entity”.~~

28 Section 94B amended (Notice of local transition period)

~~In section 94B(6), replace “Group and any local authority” with “Group, local authority, and water services entity”.~~

29 Section 94D amended (Extension of transition periods)

~~In section 94D(4), replace “Group and any local authority” with “Group, local authority, and water services entity”.~~

30 Section 115A amended (Permanent legislative authority for payment of certain expenses)

In section 115A,—

- (a) after “reimburse a local authority”, insert “or water services entity”;
- (b) replace “by a local authority” with “by ~~the~~ a local authority or ~~the~~ water services entity”.

Subpart 2—Amendment to Climate Change Response Act 2002

31 Principal Act

This subpart amends the Climate Change Response Act 2002.

32 Section 5ZW amended (Minister or Commission may request certain organisations to provide information on climate change adaptation)

After section 5ZW(8)(c), insert:

- (ca) water services entities established under section 11 of the Water Services Entities Act 2022:
- (cb) a subsidiary (as defined in **section 6(1)** of the Water Services Entities Act 2022):

Subpart 3—Amendments to Crown Organisations (Criminal Liability)
Act 2002**33 Principal Act**

This subpart amends the Crown Organisations (Criminal Liability) Act 2002.

34 Section 4 amended (Interpretation)

In section 4, definition of **government-related organisation**, after paragraph (j), insert:

- (k) a water services entity (as defined in **section 6(1)** of the Water Services Entities Act 2022)

35 Section 6 amended (Prosecutions against Crown organisations)

After section 6(1)(e), insert:

- (f) an offence against the Water Services Act 2021.

36 Section 7 amended (Legal status of certain Crown organisations)

In section 7(a), replace “or Part 3 of the Children’s Act 2014” with “Part 3 of the Children’s Act 2014, or the Water Services Act 2021”.

Subpart 4—Amendment to Financial Markets Conduct Act 2013

37 Principal Act

This subpart amends the Financial Markets Conduct Act 2013.

38 Schedule 1 amended

In Schedule 1, after clause 40(c), insert:

- (ca) a water services entity established under section 11 of the Water Services Entities Act 2022:

Subpart 5—Amendment to Fire and Emergency New Zealand Act 2017

39 Principal Act

This subpart amends the Fire and Emergency New Zealand Act 2017.

40 Section 73 amended (Duty to develop, consult on, recommend the approval of, and publish and notify code of practice for firefighting water supplies)

Replace section 73(2) with:

- (2) FENZ must develop a code of practice in consultation with—
- (a) local advisory committees; and
 - (b) water services entities established under section 11 of the Water Services Entities Act 2022 or any other appropriate authorities or organisations.

Subpart 6—Amendments to Goods and Services Tax Act 1985

41 Principal Act

This subpart amends the Goods and Services Tax Act 1985.

42 Section 2 amended (Interpretation)

In section 2(1), insert in its appropriate alphabetical order:

water services entity means a water services entity as defined in **section 6(1)** of the Water Services Entities Act 2022

42A Section 5 amended (Meaning of term supply)

- (1) After section 5(7B)(b), insert:

(c) a water infrastructure contribution under the Water Services Entities Act 2022.

- (2) After section 5(7C)(b), insert:

(c) a water infrastructure contribution under the Water Services Entities Act 2022.

43 Section 6 amended (Meaning of term taxable activity)

In section 6(1)(b), replace “or any local authority or” with “, local authority, water services entity, or”.

43A Section 9 amended (Time of supply)

In section 9(8), after “local authority”, insert “or a water services entity”.

43B Section 11B amended (Zero-rating of some supplies by territorial authorities, some supplies involving contributions to local authorities)

- (1) In section 11B(1B),—

(a) after “a local authority”, insert “or a water services entity”:

- (b) after “the local authority”, insert “or the water services entity”.
- (2) In section 11B(1C),—
 - (a) after “a local authority”, insert “or a water services entity”:
 - (b) after “the local authority”, insert “or the water services entity”.

Subpart 7—Amendment to Government Rooding Powers Act 1989

44 **Principal Act**

This subpart amends the Government Rooding Powers Act 1989.

45 **Section 52 amended (Notice to be given of local authority works)**

In section 52(4), replace “or the Telecommunications Act 2001” with “the Telecommunications Act 2001, or the Water Services Entities Act 2022”.

Subpart 8—Amendments to Health Act 1956

46 **Principal Act**

This subpart amends the Health Act 1956.

47 **Section 2 amended (Interpretation)**

In section 2(1), insert in their appropriate alphabetical order:

Taumata Arowai means Taumata Arowai—the Water Services Regulator established by section 8 of the Taumata Arowai—the Water Services Regulator Act 2020

water services entity means a water services entity established under section 11 of the Water Services Entities Act 2022

48 **Section 25 amended (Local authority to provide sanitary works)**

- (1) In the heading to section 25, after “**authority**”, insert “**or water services entity**”.
- (2) Replace section 25(1)(a) and (b) with:
 - (a) water supply reticulation and treatment;
 - (b) wastewater reticulation, treatment and disposal;
 - (ba) stormwater reticulation, treatment and disposal;
- (3) In section 25(2), after “such sanitary works”, insert “(other than those specified in **subsection (1)(a), (b), or (ba)**)”.
- (4) After section 25(3), insert:
 - (3A) The Minister may, by notice in the *Gazette*, require any water services entity to provide for the benefit of its service area, whether within or beyond the boundaries of its service area, a sanitary work specified in **subsection (1)(a), (b),**

- or (ba)** that the Minister may specify in the requisition or to alter or extend any works previously provided by the water services entity.
- (3B) Before issuing a requisition under **subsection (3A)**, the Minister must consult Taumata Arowai.
- (3C) A requisition issued under **subsection (3A)** may specify a time, which must not be less than 3 months after the requisition is served, within which proposals for the carrying out of the work may be submitted to the Director-General under this section, and may contain any general directions relating to the carrying out of the work, including a direction as to the amount of expenditure to be incurred, that the Director-General thinks fit.
- (3D) Any 2 or more water services entities may, with the Director-General’s approval, and must, if required by the Director-General, combine for the purpose of providing, altering, or extending any works specified under **subsection (3A)**; and if they have combined, or have been required to combine for that purpose, a requisition under **subsection (3A)** may be issued to them jointly, and any reference in subsections (4) to (9) to a water services entity must be construed accordingly.
- (5) In section 25(4), after “authority”, insert “or water services entity”.
- (6) In section 25(5)(a), after “authority”, insert “or water services entity” in each place.
- (7) In section 25(6), after “authority”, insert “or water services entity”.
- (8) After section 25(6), insert:
- (6A) Before approving a proposal under subsection (6), the Director-General must consult Taumata Arowai.
- (9) In section 25(7), after “authority”, insert “or water services entity”.
- (10) In section 25(8) and (9), after “authority”, insert “or water services entity” in each place.
- (11) In section 25(10),—
- (a) after “authority”, insert “or water services entity”; and
 - (b) after “local authorities”, insert “or water services entities”; and
 - (c) after “those authorities”, insert “or entities”.
- (12) In section 25(11), after “authorities”, insert “or water services entity or entities”.
- (13) In section 25(12),—
- (a) after “authority”, insert “or water services entity” in each place; and
 - (b) after “authority’s”, insert “or water services entity’s”.
- (14) In section 25(13), after “authority”, insert “or water services entity” in each place.

49 Section 27A amended (Grants and subsidies for refuse disposal works, sewerage works, and water supplies)

- (1) In the heading to section 27A, delete “, sewerage works, and water supplies”.
- (2) In section 27A(1), replace “public water supplies, refuse disposal works, sewerage works, and works for the disposal of sewage” with “refuse disposal works”.

50 Section 33 amended (Proceedings in respect of nuisances)

- (1) In section 33(6), after “on behalf of the local authority,” insert “or, if the nuisance concerns water supply or stormwater drainage, the water services entity,”.
- (2) In section 33(7), after “health”, insert “or, if the nuisance concerns water supply or stormwater drainage, the water services entity,”.
- (3) In section 33(8), after “local authority”, insert “or water services entity” in each place.
- (4) In section 33(9), replace “local authority or the medical officer of health” with “local authority, medical officer of health, or water services entity” in each place.
- (5) In section 33(9), replace “funds of the local authority” with “funds of the local authority or water services entity”.

51 Section 34 amended (Power to abate nuisance without notice)

Replace section 34(2) with:

- (2) Nothing in subsection (1) applies to a nuisance wholly or partly caused by water supply or stormwater drainage.
- (3) All expenses incurred in the abatement of a nuisance under this section may be recovered from the owner or the occupier of the premises in respect of which they are incurred, as a debt due to,—
 - (a) in the case of a nuisance wholly or partly caused by water supply or stormwater drainage, the water services entity;
 - (b) in any other case, the local authority.

52 Section 35 amended (Proceedings when nuisance caused by default outside district)

In section 35, insert as subsection (2):

- (2) Nothing in subsection (1) applies to a nuisance wholly or partly caused by water supply or stormwater drainage.

53 Section 64 amended (Bylaws)

- (1) In section 64(1)(g), replace “drainage” with “private drains”.
- (2) In section 64(1)(v), delete “and of any water supply”.

54 Section 116C amended (Purpose)

In section 116C, replace “local authority” with “water services entity” in each place.

55 Section 116D amended (Interpretation)

- (1) In section 116D, repeal the definition of **local authority supply**.
- (2) In section 116D, insert in its appropriate alphabetical order:

water services entity supply means the infrastructure owned or operated, or processes used, by, for, or on behalf of a water services entity to abstract, store, treat, transmit, or transport water supply to consumers

56 Section 116E amended (Director-General may direct local authority to add or not to add fluoride to drinking water)

- (1) In the heading to section 116E, replace “local authority” with “water services entity”.
- (2) In section 116E(1) and (3)(b)(i) and (ii), replace “local authority” with “water services entity” in each place.

57 Section 116F amended (Contents of direction)

In section 116F(1) and (3), replace “local authority” with “water services entity” in each place.

58 Section 116G amended (Engagement with local authority)

- (1) In the heading to section 116G, replace “local authority” with “water services entity”.
- (2) In section 116G(1), (2), and (3), replace “local authority” with “water services entity” in each place.

59 Section 116H amended (Local authority not required to consult)

- (1) In the heading to section 116H, replace “Local authority” with “Water services entity”.
- (2) In section 116H, replace “local authority” with “water services entity”.

60 Section 116I amended (Local authority must comply with direction)

- (1) In the heading to section 116I, replace “Local authority” with “Water services entity”.
- (2) In section 116I(1) and (2), replace “local authority” with “water services entity” in each place.

61 Section 116J amended (Offence to contravene or permit contravention of section 116I)

In section 116J(1), replace “local authority” with “water services entity”.

62 Schedule 1AA amended

- (1) In Schedule 1AA, heading to clause 1, replace “**Local authority**” with “**Water services entity**”.
- (2) In Schedule 1AA, clause 1, replace “local authority” with “water services entity” in each place.
- (3) In Schedule 1AA, heading to clause 2, replace “**Local authority**” with “**Water services entity**”.
- (4) In Schedule 1AA, clause 2, replace “local authority” with “water services entity” in each place.

Subpart 9—Amendments to Income Tax Act 2007

63 Principal Act

This subpart amends the Income Tax Act 2007.

64 New section CW 38C inserted (Water services entities)

After section CW 38B, insert:

CW 38C Water services entities

Exempt income: sinking funds

- (1) An amount of income derived from sinking funds relating to the debt of a water services entity is exempt income.

Exempt income: other income

- (2) Any other amount of income derived by a water services entity is exempt income.

Exclusion: amounts received in trust

- (3) **Subsection (2)** does not apply to an amount of income that a water services entity derives as a trustee.

65 Section YA 1 amended (Definitions)

In section YA 1, insert in its appropriate alphabetical order:

water services entity means a water services entity as defined in **section 6(1)** of the Water Services Entities Act 2022

Subpart 10—Amendments to Infrastructure Funding and Financing Act
2020**66 Principal Act**

This subpart amends the Infrastructure Funding and Financing Act 2020.

67 Section 3 amended (Purpose)

In section 3(1)(b), after “constraints”, insert “or supports water services entity financing and funding”.

68 Section 7 amended (Interpretation)

- (1) In section 7(1), definition of **responsible infrastructure authority**, after paragraph (c), insert:

(ca) a water services entity;

- (2) In section 7(1), insert in its appropriate alphabetical order:

water services entity means a water services entity established under section 11 of the Water Services Entities Act 2022

68AA Section 32 amended (Setting levy: leviable land)

After section 32(3)(b)(i), insert:

(ia) a water services entity; and

68AB Section 33 amended (Setting levy: factors to be used in assessing liability)

After section 33(5)(b)(i), insert:

(ia) a water services entity; and

Subpart 10A—Amendments to Land Drainage Act 1908

68A Principal Act

This subpart amends the Land Drainage Act 1908.

68B New section 2B inserted (Relationship ~~to~~ with Water Services Entities Act 2022)

After section 2A, insert:

2B Relationship ~~to~~ with Water Services Entities Act 2022

- (1) If any stormwater network would be affected by any action authorised by this Act, the local authority must obtain the agreement of the relevant water services entity before exercising those powers.

- (2) In this section,—

stormwater network has the same meaning as in ~~section 6(1)~~ **section 6(1)** of the Water Services Entities Act 2022

water services entity means a water services entity established ~~by~~ under section 11 of the Water Services Entities Act 2022.

Subpart 11—Amendments to Local Government Act 1974

69 Principal Act

This subpart amends the Local Government Act 1974.

70 Section 2 amended (Interpretation)

In section 2(1), insert in its appropriate alphabetical order:

water services entity means a water services entity established under section 11 of the Water Services Entities Act 2022

71 Section 319 amended (General powers of councils in respect of roads)

In section 319(2), replace “wastewater” with “wastewater, stormwater,”.

71A Section 334A amended (Council may light roads, etc)

After section 334A(3), insert:

- (4) Before exercising a power under this section to do anything that will or is likely to interfere with any pipe, line, or other work associated with wastewater, stormwater, or the supply of water, the council must give the water services entity not less than 10 working days’ notice in writing of the proposed interference, except in the case of any emergency or danger.

71B Section 337 amended (Alteration of pipes and drains)

In section 337, insert as subsection (2):

- (2) Before exercising a power under this section to do anything that will or is likely to interfere with any pipe, line, or other work associated with wastewater, stormwater, or the supply of water, the council must give the water services entity not less than 10 working days’ notice in writing of the proposed interference, except in the case of any emergency or danger.

72 Section 338 amended (Council may grant right to lay conduit pipes along or under road)

After section 338(2), insert:

- (3) Nothing in this section limits or affects the right of a water services entity to lay conduit pipes along or under any roads.

73 New Part 25A inserted

Before Part 26, insert:

Part 25A

Role of water services entities in respect of Parts 26 and 29

439A Local authorities must obtain agreement of water services entities to exercise certain powers affecting stormwater network

If a stormwater network would be affected, a local authority must obtain the agreement of the relevant water services entity before exercising 1 or more of the powers under the following provisions of this Act:

- (a) section 446(1) (the power to cover watercourses, making them public drains):
- (b) section 451(1)(b) (the power to enter into agreements regarding how drainage works are to be diverted, altered, protected, or replaced):
- (c) section 459 (the power to require the owners to provide private drains):
- (d) section 460 (the power to enter premises to lay private drains):
- (e) section 462 (the power to declare specified private drains to be public drains):
- (f) section 517ZM (the power to declare the whole or a defined part of a district in which a land drainage scheme or water race scheme is situated to be constituted a drainage area or a water race area).

439B Local authorities must provide notice to water services entities in certain circumstances

A local authority must provide reasonable notice to the relevant water services entity in the following circumstances:

- (a) before the local authority exercises the power under section 319(1)(h) or 342 to stop a road or close any road on a temporary basis if doing so would affect a water services entity's stormwater network:
- (b) before the local authority exercises the power under section 446(9) to undertake temporary work for abating a nuisance in a watercourse:
- (c) as soon as practicable after the local authority receives notice under section 451(1)(a) that a person proposes to erect a building or carry out any work that would affect drainage that the local authority considers essential.

439C Local authorities must consult water services entities before applying for declaration under section 507

A local authority must—

- (a) consult the relevant water services entity before applying to the Minister under section 507 for a declaration that a drainage channel should be subject to Part 29; and

- (b) advise the Minister of the water services entity's views before the Minister makes a decision.

74 New section 468A inserted (Contracts relating to provision of drains)

After section 468, insert:

468A Contracts relating to provision of drains

- (1) A council may enter into a contract for a term not longer than 15 years in respect of 1 or more of the following matters:
 - (a) covering a watercourse under section 446:
 - (b) replacing or repairing property under section 467(2):
 - (c) removing or altering a private drain under section 467(2):
 - (d) removing, cutting down, or grubbing up a tree under section 468(6):
 - (e) doing anything that a council may do under Part 29.
- (2) If a council enters into a contract under **subsection (1)**, it must—
 - (a) continue to be legally responsible for providing the relevant services; and
 - (b) maintain ownership of the infrastructure and assets relating to the relevant services.
- (3) This section does not prevent a council from entering into a contract with 1 or more water services entities if the purpose of the contract relates solely to water services.

Compare: 2002 No 84 s 136(1)–(3)

75 Section 510 amended (Inspection of private dams, etc)

In section 510, replace “mill race,” with “mill race that affects a council-owned land drainage scheme.”

76 Section 517J amended (Service of transfer proposal)

After section 517J(c), insert:

- (d) the water services entity within whose service area the scheme to which the transfer proposal relates is wholly or partly situated or that is otherwise likely to be affected by the transfer of that scheme.

77 Section 517K replaced (Right to object to transfer proposal)

Replace section 517K with:

517K Right to object to transfer proposal

The following may, in accordance with this Part, object to a transfer proposal filed under section 517E in relation to any land drainage scheme or water race scheme:

- (a) any scheme user who is the operator of a drainage system or water supply system that utilises the scheme to which the transfer proposal relates;
- (b) any other scheme user in relation to the scheme to which the transfer proposal relates;
- (c) any local authority within whose district the scheme to which the transfer proposal relates is wholly or partly situated or that is otherwise likely to be affected by the transfer of that scheme (including the local authority that has control of that scheme);
- (d) the water services entity within whose service area the scheme to which the transfer proposal relates is wholly or partly situated or that is otherwise likely to be affected by the transfer of that scheme.

78 Section 517L replaced (Notice of right to object)

Replace section 517L with:

517L Notice of right to object

Subject to section 517F(3), a local authority that receives a transfer petition and transfer proposal under section 517E must, as soon as practicable after receiving it, forward a notice that complies with section 517M to—

- (a) every scheme user who is the operator of a drainage system or water supply system that utilises the scheme to which the transfer proposal relates; and
- (b) every other scheme user in relation to the scheme to which the transfer proposal relates; and
- (c) every local authority entitled under **section 517K(c)** to object to the transfer proposal; and
- (d) every water services entity entitled under **section 517K(d)** to object to the transfer proposal.

79 Section 517M amended (Contents of notice of right to object)

After section 517M(d)(i), insert:

- (ia) a water services entity entitled under **section 517K(d)** to object to the transfer proposal; or

80 Section 517P amended (Notification by local authority of receipt of objections)

After section 517P(a)(i), insert:

- (ia) a water services entity entitled under **section 517K(d)** to object to the transfer proposal; or

81 Section 517S amended (Procedure on receipt of objections)

After section 517S(1)(a), insert:

(aa) an objection from a water services entity entitled under **section 517K(d)** to object to the transfer proposal; or

82 Section 517U amended (Relevant criteria)

After section 517U(e), insert:

(f) the extent to which the transfer of the scheme would affect the duties, functions, or powers of any water services entity under the Water Services Entities Act 2022.

83 Section 517V amended (Notice of Commission’s determination)

In section 517V(1)(a), after “local authority”, insert “and water services entity”.

84 Section 647 repealed (Fire hydrants)

Repeal section 647.

85 Section 648 repealed (Pipes to be kept charged with water)

Repeal section 648.

86 Schedule 14 amended

(1) Replace the Schedule 14 heading with:

Schedule 14
Provisions relating to drainage works and drainage channels on roads and works not under control of council

(2) In Schedule 14, replace clauses 1 to 4 with:

- 1 Before interfering with any road or other work that is not under the control of the council for the purposes of constructing or maintaining drainage works or drainage channels, the council must give not less than 1 month’s notice in writing to the local authority, water services entity, or body having control of the road or work.
- 2 If that local authority, water services entity, or body objects to the interference, the matter must be referred to the District Court, whose decision is final.
- 3 The council may at any time interfere with the road or work, so far as may be necessary to effect all necessary repairs in the drainage works or drainage channels, on giving to that local authority, water services entity, or body not less than 3 days’ previous notice in writing of its intention to do so.
- 4 In any sudden emergency or danger to the drainage works or drainage channels or property adjoining, the council may, without any previous notice, proceed to carry out the necessary repairs, but must as soon as practicable after carrying out the repairs inform the local authority, water services entity, or body.

Subpart 12—Amendments to Local Government Act 2002

87 Principal Act

This subpart amends the Local Government Act 2002.

88 Section 5 amended (Interpretation)

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

agricultural water supply—

- (a) means water supplied by a local authority for agricultural or horticultural purposes; and
- (b) includes a water race; but
- (c) does not include—
 - (i) drinking water within the meaning of section 6(a) of the Water Services Act 2021;
 - (ii) firefighting water supplies (as defined in section 6 of the Fire and Emergency New Zealand Act 2017)

89 Section 17 amended (Transfer of responsibilities)

After section 17(4A), insert:

- (4B) A local authority may not agree to or accept a proposed transfer under this section that has an actual or a potential impact on a stormwater network or a stormwater management plan, unless—
- (a) the local authority has given written notice to the relevant water services entity of the proposed transfer; and
 - (b) the water services entity approves the transfer.

90 Section 17A amended (Delivery of services)

After section 17A(4)(b)(ii), insert:

- (ia) a water services entity; or

91 Section 101A amended (Financial strategy)

In section 101A(3)(a)(ii), replace “network infrastructure,” with “provision of roads and other transport (including transport stormwater systems),”.

92 Section 101B amended (Infrastructure strategy)

Replace section 101B(6)(a) with:

- (a) existing or proposed assets to be used to provide services by or on behalf of the local authority in relation to the following groups of activities:
 - (i) flood protection and control works:

- (ii) the provision of roads and footpaths (including transport storm-water systems); and

93 Section 123 amended (Outline of Part)

Repeal section 123(a) and (b).

94 Subpart 1 heading in Part 7 replaced

In Part 7, replace the subpart 1 heading with:

Subpart 1—Obligations in respect of water services and sanitary services

95 Sections 124 and 125 replaced

Replace sections 124 and 125 with:

124 Territorial authorities and regional councils must consider findings and implications of water services assessment

- (1) A territorial authority must consider the findings and implications of any water services assessment under **section 245** of the Water Services Entities Act 2022 in relation to—
- (a) its current and future infrastructure strategy and long-term plan; and
 - (b) its district plan prepared under the Resource Management Act 1991 plan made in accordance with **Schedule 7 of the Natural and Built Environment Act 2022**; and
 - (c) its broader duty to improve, promote, and protect public health within its district in accordance with section 23 of the Health Act 1956.
- (2) A regional council must consider the findings and implications of any water services assessment under **section 245** of the Water Services Entities Act 2022 when approving a regional plan under ~~Schedule 1 of the Resource Management Act 1991~~ **Schedule 7 of the Natural and Built Environment Act 2022**.

125 Requirement to assess sanitary services

- (1) A territorial authority must assess the adequacy of the sanitary services provided within its district from a public health perspective and in the light of—
- (a) the health risks to communities arising from any absence of, or deficiency in, the services; and
 - (b) the quality of the services currently available to communities within the district; and
 - (c) the current and estimated future demands for any of those services.
- (2) A territorial authority may assess 1 or more sanitary services at a time.
- (3) A territorial authority must take the assessment into account in its infrastructure strategy and its long-term plan.

- (4) In this section,—
- assessment**, in relation to sanitary services,—
- (a) means an assessment of the sanitary services available to communities in the district of a territorial authority; but
 - (b) does not include assessments in relation to individual properties
- sanitary services** means—
- (a) sanitary conveniences for the use of the public:
 - (b) cemeteries:
 - (c) crematoria.

96 Sections 126 to 128 repealed

Repeal sections 126 to 128.

97 Subpart 2 of Part 7 repealed

Repeal subpart 2 of Part 7.

98 Section 143 amended (Outline of Part)

Repeal section 143(d).

99 Section 146 replaced (Specific bylaw-making powers of territorial authorities)

Replace section 146 with:

146 Specific bylaw-making powers of territorial authorities

- (1) Without limiting section 145, a territorial authority may make bylaws for its district for the purposes of—
- (a) regulating 1 or more of the following:
 - (i) waste management:
 - (ii) on-site wastewater disposal systems:
 - (iii) solid wastes:
 - (iv) keeping of animals, bees, and poultry:
 - (v) trading in public places:
 - (b) managing, regulating, or protecting from damage, misuse, or loss, or preventing the use of, the land, structures, or infrastructure associated with 1 or more of the following:
 - (i) agricultural water supply:
 - (ii) drainage and sanitation:
 - (iii) land drainage:
 - (v) cemeteries:

- (vi) reserves, recreation grounds, or other land under the control of the territorial authority.
- (2) If a territorial authority makes bylaws under this Act, the Reserves Act 1977, or the Land Transport Act 1998 relating to a stormwater network, the bylaws must give effect to any stormwater environmental performance standards made under **section 139A** of the Water Services Act 2021.
- (3) **Subsection (2)** applies to bylaws made on and after the commencement of **section 139A** of the Water Services Act 2021.

100 Section 148 repealed (Special requirements for bylaws relating to trade wastes)

Repeal section 148.

101 Section 149 amended (Power of regional councils to make bylaws)

Repeal section 149(1)(d).

102 Section 153 amended (The Crown bound by certain bylaws)

Replace section 153(1) with:

- (1) The Crown is bound by bylaws made by a local authority under any of the following provisions:
 - (a) **section 146(a)(iii)**, in relation to solid wastes:
 - (b) **section 146(b)(i)**, in relation to agricultural water supply:
 - (c) **section 146(b)(iv)**, in relation to land drainage.

103 Section 181 amended (Construction of works on private land)

(1) Replace section 181(1) with:

- (1) A local authority may construct works on or under private land or under a building on private land that it considers necessary for—
 - (a) the agricultural water supply:
 - (b) land drainage and rivers clearance.

(2) Repeal section 181(2).

(3) In section 181(3), delete “or subsection (2)”.

104 Section 182 replaced (Power of entry to check utility services)

Replace section 182 with:

182 Power of entry to check utility services

- (1) An enforcement officer of a local authority may enter any land or building (but not a dwelling house) for the purpose of ascertaining whether—
 - (a) any agricultural water supply is being misused; or
 - (b) any land drainage works are being misused; or

- (c) any appliance or equipment associated with a local authority utility service on the land is in a condition that makes it dangerous to life or property.
- (2) The power under **subsection (1)** may only be exercised if ~~the enforcement officer~~
 - (a) ~~the enforcement officer~~ believes on reasonable grounds that the circumstances in **subsection (1)(a), (b), or (c)** exist; and
 - (b) the local authority gives reasonable notice to the occupier of the land or building of the intention to exercise the power.

105 Section 193 replaced (Power to restrict water supply)

Replace section 193 with:

193 Power to restrict agricultural water supply

The supply of agricultural water to a person’s land may be restricted by a local authority in any manner it thinks fit if the person—

- (a) fails or refuses to do anything required by this Part in respect of agricultural water supplied by the local authority; or
- (b) fails to comply with any bylaw of a local authority that relates—
 - (i) to agricultural water supplied by the local authority; and
 - (ii) to the person’s land; or
- (c) fails or refuses to do anything that the person has undertaken or agreed to do in respect of the agricultural water supply to his or her land; or
- (d) refuses entry to, or obstructs, an enforcement officer under section 182.

106 Section 197 amended (Interpretation)

In section 197(2), replace the definition of **network infrastructure** with:

network infrastructure means the provision of agricultural water supply, land drainage, and roads and other transport (including transport stormwater systems)

106A Section 199F amended (Appointment and register of development contributions commissioners)

- (1) In section 199F(1), after “objections”, insert “under this Act and the Urban Development Act 2020 and water infrastructure contribution objections under the Water Services Entities Act 2022”.
- (2) In section 199F(5), after “objections”, insert “or water infrastructure contribution objections”.

106B Section 199L amended (Liability of development contributions commissioners)

In section 199L, after “this Act”, insert “or any other enactment”.

107 Sections 224 to 227 and cross-headings repealed

Repeal sections 224 to 227 and the cross-headings above sections 224 and 227.

108 Section 232 amended (Damage to local authority works or property)

Repeal section 232(1)(b).

109 Section 242 amended (Penalties for offences)

- (1) In section 242(1), delete “section 225,”.
- (2) In section 242(2), replace “section 224, sections 229 to 231, or” with “sections 229 to 231 or”.
- (3) In section 242(4), delete “(other than a bylaw made under Part 8 referred to in subsection (5))”.
- (4) Repeal section 242(5).

110 Section 261B amended (Secretary must make rules specifying performance measures)

Replace section 261B(1) with:

- (1) The Secretary must, as soon as is reasonably practicable, make rules specifying performance measures in relation to the following groups of activities:
 - (a) flood protection and control works:
 - (b) the provision of roads and footpaths (including transport stormwater systems).

111 Schedule 1AA amended

- (1) ~~In Schedule 1AA, clause 27(2), after “water services”, insert “other than land drainage or agricultural water supply”.~~
- (1) In Schedule 1AA, clause 27(2), replace “(as defined in clause 1 of Schedule 1 of the Water Services Entities Act 2022)” with “(as defined in **section 6(1)** of the Water Services Entities Act 2022)”.
- (1A) In Schedule 1AA, after clause 27(2), insert:
 - (3) Despite subclauses (2) and (3), a long-term plan may include material about activities or plans a local authority intends to undertake to assist in the management of stormwater in its district (for example, the use of parks as temporary flood storage areas).
- (1B) In Schedule 1AA, cross-heading above clause 39(2) and (4), replace “*financial*” with “*environmental*”.

- (1C) In Schedule 1AA, clause 39(2)(a), (ab), (b), and (c) and (4), replace “financial” with “environmental” in each place.
- (1D) In Schedule 1AA, clause 39(5), repeal the definition of **financial contributions**.
- (1E) In Schedule 1AA, clause 39(5), insert in its appropriate alphabetical order: **environmental contribution** has the meaning the same meaning as in **section 7(1) of the Natural and Built Environment Act 2022**
- (2) In **Schedule 1AA**,—
- (a) insert the Part set out in **Schedule 3** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

112 Schedule 8 amended

In Schedule 8, replace clause 8(1) with:

- (1) This clause applies to a council-controlled organisation that provides services, other than under a contract or similar arrangement, in relation to the following groups of activities:
- (a) flood protection and control works:
- (b) the provision of roads and footpaths (including transport stormwater systems).

113 Schedule 10 amended

- (1) In Schedule 10, replace clause 2(2) with:
- (2) In this schedule, each of the following activities is a group of activities:
- (a) flood protection and control works:
- (b) the provision of roads and footpaths (including transport stormwater systems).
- (2) In Schedule 10, replace clause 6(a) with:
- (a) assessment of sanitary services under **section 125**:

Subpart 13—Amendments to Local Government (Auckland Council) Act 2009

114 Principal Act

This subpart amends the Local Government (Auckland Council) Act 2009.

115 Section 3 amended (Purpose)

Replace section 3(d) with:

- (d) to establish arrangements for the management of transport for Auckland; and

116 Section 4 amended (Interpretation)

In section 4(1), repeal the definition of **Auckland water organisation**.

117 Part 5 repealed

Repeal Part 5.

Subpart 14—Amendments to Local Government (Auckland Transitional Provisions) Act 2010**118 Principal Act**

This subpart amends the Local Government (Auckland Transitional Provisions) Act 2010.

119 Sections 17 to 27 and cross-heading above section 17 repealed

Repeal sections 17 to 27 and the cross-heading above section 17.

120 Section 34 repealed (Wastewater rate for 2011/2012 financial year)

Repeal section 34.

121 Sections 55 and 56 repealed

Repeal sections 55 and 56.

122 Section 58 amended (Financial contributions already made or owed to existing local authorities)

Repeal section 58(3).

123 Sections 59 and 60 repealed

Repeal sections 59 and 60.

124 Section 67 amended (Statutory warrants relating to law other than transport law)

(1) Replace section 67(1)(b) with:

(b) they were issued by an existing local authority to an employee of, or a contractor to, the existing local authority:

(2) In section 67(3)(a), delete “or Watercare Services Limited, as the case may be”.

125 Section 83 amended (Tax)

(1) In section 83(3)(b), delete “or Watercare Services Limited”.

(2) Repeal section 83(19).

126 Section 98 amended (Interpretation)

In section 98(1), definition of **new employer**, repeal paragraph (a)(iii).

Subpart 15—Amendments to Local Government Official Information
and Meetings Act 1987

127 Principal Act

This subpart amends the Local Government Official Information and Meetings Act 1987.

128 Section 2 amended (Interpretation)

In section 2(1), insert in its appropriate alphabetical order:

water services entity means a water services entity established under section 11 of the Water Services Entities Act 2022

129 Section 44A amended (Land information memorandum)

(1) Replace section 44A(2)(b) with:

(b) information on private and public stormwater drainage as shown on the territorial authority's and relevant water services entity's records:

(2) In section 44A(2)(bb)(ii), after “conditions”, insert “(other than conditions imposed by a water services entity)”.

(3) Replace section 44A(3) with:

(3) In addition to the information provided under subsection (2), a territorial authority may provide in the memorandum,—

(a) at the request of the relevant water services entity, any other information relating to water services infrastructure in or on the land:

(b) any other information concerning the land that the authority considers, at its discretion, to be relevant.

130 Schedule 1 amended

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

Water services entities established under section 11 of the Water Services Entities Act 2022

131 Schedule 2 amended

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

Boards of water services entities established under section 11 of the Water Services Entities Act 2022

Regional advisory panels for regional representative groups established under subpart 5 of Part 2 of the Water Services Entities Act 2022

Regional representative groups established under subpart 4 of Part 2 of the Water Services Entities Act 2022

Subpart 16—Amendments to Local Government (Rating) Act 2002

132 Principal Act

This subpart amends the Local Government (Rating) Act 2002.

133 Section 9 amended (Non-rateable land liable for certain rates)

Replace section 9(a) with:

- (a) the rate is set solely for agricultural water supply or refuse collection;
and

134 Section 19 amended (Targeted rate for water supply)

- (1) In the heading to section 19, before “water”, insert “agricultural”.
- (2) In section 19(1) and (2)(a), before “water”, insert “agricultural” in each place.

135 Section 19A amended (Rates not to overlap with targeted rates under Urban Development Act 2020)

- (1) In section 19A(2), examples, replace “Examples” with “Example”.
- (2) In section 19A(2), examples, delete “*Example 1*”.
- (3) In section 19A(2), repeal example 2.

136 Section 21 amended (Certain rates must not exceed 30% of total rates revenue)

Repeal section 21(3).

138 Schedule 3 amended

- (1) In Schedule 3, repeal item 12.
- (2) In Schedule 3, notes, repeal item 4.

Subpart 16AA—Amendments to Natural and Built Environment Act 2022**138A Principal Act**

This subpart amends the **Natural and Built Environment Act 2022**.

138B Section 7 amended (Interpretation)

- (1) In **section 7(1)**, definition of **requiring authority**, after **paragraph (c)**, insert:
(ca) a water services entity; or
- (2) In **section 7(1)**, insert in their appropriate alphabetical order:
stormwater network has the same meaning as in section 5 of the Water Services Act 2021

water services entity means a water services entity established by section 11 of the Water Services Entities Act 2022

water services infrastructure has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022

wastewater network has the same meaning as in section 5 of the Water Services Act 2021

138C Section 13B amended (Consultation during preparation of plan)

After **section 13B(1)(h)**, insert:

- (i) the water services entities in whose service area the local authority is located.

138D Section 112 amended (Specific requirements relating to environmental contributions)

After **section 112(4)(a)**, insert:

- (ab) have regard to any water infrastructure contribution payable under the Water Services Entities Act 2022 within that region; and

138E Section 201 amended (Determination of whether person is affected person)

(1) After **section 201(2)(f)**, insert:

- (g) determine whether there are any affected water services entities.

(2) After **section 201(2B)**, insert:

(2C) A water services entity is an affected person, in relation to a proposed activity, if—

- (a) the proposed activity is located in the service area of the water services entity; and
- (b) the adverse effects of the proposed activity on the water services entity are or are likely to be more than minor; and
- (c) the water services entity has not given written approval for the activity or has withdrawn approval for the activity in a written notice received by the consent authority before the authority has made a decision under this section.

138F Section 223 amended (Consideration of resource consent application)

After **section 223(11)(a)(viii)**, insert:

- (ix) a stormwater environmental performance standard made under **section 139A** of the Water Services Act 2021, if the application relates to a stormwater network:

138G Section 232 amended (Particular conditions that may be included in resource consent)

- (1) After **section 232(1)(j)**, insert:
- (k) a condition directly connected to a stormwater environmental performance standard made under **section 139A** of the Water Services Act 2021.
- (2) After **section 232(5)**, insert:
- (6) When considering a resource consent application that relates to a wastewater network or a stormwater network, a consent authority must include, as a condition of granting the consent, requirements that are no less restrictive than is necessary to give effect to the wastewater environmental performance standard or the stormwater environmental performance standard.

138H Section 239 replaced (Limits to setting environmental contributions)

Replace **section 239** with:

239 Limits to setting environmental contributions

A consent authority must not impose a condition requiring payment of an environmental contribution under this Part in respect of an activity if, and to the extent that, either of the following has been fixed and paid, or is payable, in relation to the same activity and for the same purpose:

- (a) a development contribution within the meaning of the Local Government Act 2002;
- (b) a water infrastructure contribution under the Water Services Entities Act 2022.

Compare: 2002 No 84 s 200(1)(a)

138I Section 581 amended (Requirements to lodge documents with Registrar-General of Land)

After **section 582(c)**, insert:

- (d) **section 584A** (requirement for certificate that conditions relating to stage 3 approval under Water Services Entities Act 2022 are complied with).

138J New section 584A inserted (Requirement for certificate that conditions relating to stage 3 approval under Water Services Entities Act 2022 are complied with)

After **section 584**, insert:

584A Requirement for certificate that conditions relating to stage 3 approval under Water Services Entities Act 2022 are complied with

- (1) This section applies to a survey plan, but only if a stage 3 approval is granted under **Part 10** of the Water Services Entities Act 2022.
- (2) A certificate must be lodged with the Registrar-General of Land certifying—
 - (a) that a stage 3 approval has been granted under **section 311** of the Water Services Entities Act 2022; and
 - (b) either—
 - (i) no conditions were imposed on the stage 3 approval; or
 - (ii) all or some of the conditions of the stage 3 approval have been complied with and, in relation to any conditions that have not been complied with, a notice has been issued in relation to the conditions under **section 316** of that Act.
- (3) **Subsection (2)** is a deposit requirement for the purpose of **section 579**.
- (4) The certificate must be signed by the chief executive or other authorised officer of the water services entity.

138K Section 626 amended (Other conditions relevant to subdivision consents)

After **section 626(a)**, insert:

Water services infrastructure

- (aa) a condition requiring the vesting of ownership of water services infrastructure in accordance with section 126 of the Water Services Entities Act 2022;
- (ab) a condition requiring the granting of relevant approvals for infrastructure connections by the relevant water services entity under **Part 10** of the Water Services Entities Act 2022;

138L Schedule 10 amended

In **Schedule 10**, after **clause 4(g)**, insert:

- (h) the stage 1 approvals obtained under **Part 10** of the Water Services Entities Act 2022.

Subpart 16A—Amendment to Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010

138A-138M Principal Act

This subpart amends the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010.

138B138N Section 18 amended (Duty to have particular regard to vision and strategy)

After section 18(7), insert:

- (8) **Subsection (9)** applies to a person carrying out functions or exercising powers under an enactment specified in **subsection (10)** if the functions or powers relate to—
 - (a) the Waikato River; or
 - (b) activities in the catchment that affect the Waikato River.
- (9) Except as otherwise expressly provided in this Act, the person must have particular regard to the vision and strategy in addition to any requirement specified in the enactment for the carrying out of the functions or the exercise of the powers.
- (10) The enactments are—
 - (a) the Taumata Arowai—the Water Services Regulator Act 2020; and
 - (b) the Water Services Act 2021; and
 - (c) the Water Services Entities Act 2022.

Subpart 17—Amendment to Ombudsmen Act 1975

139 Principal Act

This subpart amends the Ombudsmen Act 1975.

140 Schedule 1 amended

In Schedule 1, Part 3, insert in their appropriate alphabetical order:

Regional advisory panels for regional representative groups established under subpart 5 of Part 2 of the Water Services Entities Act 2022

Regional representative groups established under subpart 4 of Part 2 of the Water Services Entities Act 2022

Water services entities established under section 11 of the Water Services Entities Act 2022

Subpart 18—Amendment to Public Audit Act 2001

141 Principal Act

This subpart amends the Public Audit Act 2001.

142 Schedule 1 amended

In Schedule 1, insert in its appropriate alphabetical order:

Water services entities established under section 11 of the Water Services Entities Act 2022

Subpart 19—Amendment to Public Records Act 2005

143 Principal Act

This subpart amends the Public Records Act 2005.

144 Section 4 amended (Interpretation)

In section 4, definition of ~~local authority~~ **local authority**, after paragraph (b), insert:

- (c) includes a water services entity as defined in **section 6(1)** of the Water Services Entities Act 2022

Subpart 20—Amendments to Public Works Act 1981

145 Principal Act

This subpart amends the Public Works Act 1981.

146 Section 2 amended (Interpretation)

In section 2, definition of **local authority**, after paragraph (a), insert:

- (aa) a water services entity established under section 11 of the Water Services Entities Act 2022:

Subpart 21—Amendment to Rates Rebate Act 1973

147 Principal Act

This subpart amends the Rates Rebate Act 1973.

148 Section 2 amended (Interpretation)

- (1) In section 2(1), definition of **rates**, after “property”, insert “or a charge for water services under **section 321** of the Water Services Entities Act 2022”.
- (2) In section 2(1), definition of **rates**, after paragraph (d), insert:

- (e) water infrastructure contributions payable under the Water Services Entities Act 2022

Subpart 21A—Amendments to Receiverships Act 1993

148A Principal Act

This subpart amends the Receiverships Act 1993.

148B Cross-heading above section 40A amended

In the cross-heading above section 40A, after “*authorities*”, insert “*and water services entities*”.

148C Section 40A amended (Instrument may provide for appointment of receiver)

In section 40A, after “local authority”, insert “or a water services entity”.

148D Section 40B replaced (Power of court to appoint receiver)

Replace section 40B with:

40B Power of court to appoint receiver

- (1) Subject to sections 40D and 40E and this section, the High Court may,—
 - (a) on the application of any creditor of a local authority, appoint a receiver of any asset of the local authority or appoint a receiver for the purposes of section 115 of the Local Government Act 2002;
 - (b) on the application of any creditor of the water services entity, appoint a receiver of any asset of the water services entity or appoint a receiver for the purposes of **section 469** of the Water Services Entities Act 2022.
- (2) An appointment under **subsection (1)** must be for the period, and with the rights, powers, and duties, and on any terms and conditions, including as to security and remuneration, that the court considers appropriate in all the circumstances.
- (3) When considering, in accordance with **subsection (2)**, the terms and conditions upon which a receiver can be appointed by a court in relation to a local authority, the court must—
 - (a) take account of the interests of both the secured and non-secured creditors of the local authority, as against—
 - (i) the interests of the local authority itself; and
 - (ii) the requirement of the local authority to provide those services that are essential for the maintenance of public health and safety; and
 - (iii) the interests of the ratepayers with property within the area of the local authority; and
 - (iv) the interests of the general public living within the area of the local authority; and
 - (b) take account of the interests of secured creditors as against the interests of non-secured creditors of the local authority.
- (4) When considering, in accordance with **subsection (2)**, the terms and conditions upon which a receiver can be appointed by a court in relation to a water services entity, the court must—
 - (a) take account of the interests of both the secured and non-secured creditors of the water services entity, as against—
 - (i) the interests of the water services entity itself; and

- (ii) the requirement of the water services entity to provide those services that are essential for the maintenance of public health and safety; and
 - (iii) the interests of consumers with property within the service area of the water services entity; and
 - (iv) the interests of the general public living ~~with~~ within the service area of the water services entity; and
- (b) take account of the interests of secured creditors as against the interests of non-secured creditors of the water services entity.

148E Section 40C amended (Powers and duties of receivers)

- (1) In section 40C(1),—
- (a) after “a local authority”, insert “or a water services entity”;
 - (b) after “the local authority”, insert “or the water services entity”.
- (2) In section 40C(2), after “a local authority”, insert “or a water services entity”.

148F Section 40D amended (Constraints on receiver)

- (1) In section 40D(1), replace “local authority must ensure that no action of the receiver prevents the provision of those services of the local authority” with “local authority or a water services entity must ensure that no action of the receiver prevents the provision of those services of the local authority or the water services entity”.
- (2) In section 40D(3), after “the local authority”, insert “or the water services entity”.
- (3) In section 40D(4), after “local authority’s”, insert “or the water services entity’s”.
- (4) Replace section 40D(5) with:
- (5) Subject to subsection (6), if any land vested in a local authority or a water services entity is—
- (a) a reserve under the Reserves Act 1977; or
 - (b) land over which the local authority or water services entity has no power of disposition; or
 - (c) land in respect of which the local authority’s or water services entity’s power of disposition is conditional,—
- the power of disposition that a receiver of that local authority or water services entity has in respect of that land is limited to a power of disposition by way of lease or licence for a term or terms not exceeding in the aggregate 9 years.
- (5) In section 40D(6), after “the local authority”, insert “or the water services entity”.

148G Section 40E amended (Protection for receiver)

- (1) In section 40E(1) and (2), after “a local authority”, insert “or a water services entity”.
- (2) In section 40E(3)(a), after “the local authority”, insert “or the water services entity”.

148H Schedule 1 amended

- (1) In Schedule 1, heading, after “**local authorities**”, insert “**and water services entities**”.
- (2) In Schedule 1, replace clause 2 with:

2 References to directors

Every reference to a director or the directors must be read as if it were a reference,—

- (a) in the case of a local authority, to a member or the members of the local authority;
- (b) in the case of a water services entity, to a member or the members of the board of a water services entity.

- (3) In Schedule 1, replace clause 7 with:

7 Exception in relation to obligations of grantor

The obligation of a local authority or a water services entity to comply with section 12 is subject to section 40D(4), in that the local authority or water services entity may be required to comply with section 12 only to the extent that any such compliance will not, in the reasonable opinion of the local authority or water services entity, interfere with its ability to exercise or perform its rights, powers, and duties in relation to those assets not charged in favour of the appointor of the receiver or not the subject of the receivership.

- (4) In Schedule 1, clause 8, after “a local authority”, insert “or a water services entity”.
- (5) In Schedule 1, replace clause 11(2) and (3) with:
- (2) If the receiver prepares a report under section 23 or 24, the receiver must make that report available for public inspection,—
 - (a) in the case of a local authority, at the offices and libraries of the local authority and must make copies of any such report available to the public free of charge or at a reasonable charge;
 - (b) in the case of a water services entity, on an Internet site maintained by, or on behalf of, the water services entity.
- (3) Section 26(1) applies as if it required the receiver to send a copy of every report prepared under section 23 or 24 to,—

- (a) in the case of a local authority, the Secretary for Local Government, the Controller and Auditor-General, and the Parliamentary Library:
 - (b) in the case of a water services entity, ~~to~~ the chief executive of the water services entity, the chief executive of the department that is for the time being responsible for the administration of the Water Services Entities Act 2022, the Controller and the Auditor-General, and the Parliamentary Library.
- (6) In Schedule 1, clause 12, after “Local Authorities (Members’ Interests) Act 1968”, insert “or the Water Services Entities Act 2022”.
- (7) In Schedule 1, clause 13(1), after “local authority”, insert “or water services entity”.
- (8) In Schedule 1, clause 15, insert as subclause (2):
- (2) If a Crown observer has been appointed under section 182 of the Water Services Entities Act 2022 or a Crown manager has been appointed under section 184 of that Act, the High Court may order that any receiver so appointed may not, until the High Court so orders, exercise any of the rights, powers, and duties of a receiver.
- (9) In Schedule 1, replace clause 16 with:

16 Power to make certain applications

Sections 34(3), 35(2), and 37(1) apply as if the following were specified in those sections as persons entitled to make applications under those sections:

- (a) in the case of a local authority, the Secretary for Local Government and the Controller and Auditor-General:
 - (b) in the case of a water services entity, the chief executive of the department that is for the time being responsible for the administration of the Water Services Entities Act 2022 and the Controller and Auditor-General.
- (10) In Schedule 1, replace clause 18 with:

18 Copies of documents

Copies of the documents required by sections 8(3), 11(4), 28(1), and 29(1) to be sent to the Registrar must be sent to,—

- (a) in the case of a local authority, the Secretary for Local Government and the Controller and Auditor-General:
- (b) in the case of a water services entity, the chief executive of the department that is for the time being responsible for the administration of the Water Services Entities Act 2022 and the Controller and Auditor-General.

Subpart 22—Amendments to Resource Management Act 1991

149 Principal Act

This subpart amends the Resource Management Act 1991.

150 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

water services entity means a water services entity established under section 11 of the Water Services Entities Act 2022

water services infrastructure has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022

151 Section 95B amended (Limited notification of consent applications)

After section 95B(2)(b), insert:

(c) affected water services entities.

152 New section 95H inserted (Meaning of affected water services entity)

After section 95G, insert:

95H Meaning of affected water services entity

A water services entity is an **affected water services entity**, in relation to an activity in the service area of the water services entity, if—

- (a) the activity is the subject of a consent application and may have adverse effects in the service area of the water services entity; and
- (b) the water services entity has not given written approval for the activity or has withdrawn approval for the activity in a written notice received by the consent authority before the authority has made a decision under this section.

153 Section 104 amended (Consideration of applications)

After section 104(2D), insert:

(2E) When considering a resource consent application that relates to a stormwater network, as defined in section 5 of the Water Services Act 2021, a consent authority—

- (a) must not grant the consent contrary to a stormwater environmental performance standard made under **section 139A** of that Act; and
- (b) must include, as a condition of granting the consent, requirements that are no less restrictive than is necessary to give effect to the stormwater environmental performance standard.

154 Section 108AA amended (Requirements for conditions of resource consents)

After section 108AA(1)(b)(iii), insert:

- (iv) a stormwater environmental performance standard made under **section 139A** of the Water Services Act 2021; or

155 Section 166 amended (Definitions)

In section 166, definition of **requiring authority**, after paragraph (c), insert:

- (d) a water services entity established under section 11 of the Water Services Entities Act 2022

156 Section 220 amended (Condition of subdivision consents)

After section 220(1)(g), insert:

- (h) a condition requiring the vesting of ownership of water services infrastructure in accordance with section 126 of the Water Services Entities Act 2022:
- (i) a condition requiring the granting of the relevant approvals for infrastructure connections by the relevant water services entity under **Part 10** of the Water Services Entities Act 2022.

157 Section 224 amended (Restrictions upon deposit of survey plan)

After section 224(e), insert:

- (ea) there is lodged with the Registrar-General of Land a certificate signed by the chief executive or other authorised officer of the water services entity stating that a stage 3 approval has been granted under **section 311** of the Water Services Entities Act 2022 and—
 - (i) no conditions were imposed; or
 - (ii) all or some of the conditions of the stage 3 approval have been complied with and, in relation to any conditions that have not been complied with, a consent notice has been issued in relation to the conditions to which **section 316** of that Act applies; and

158 Schedule 1 amended

In Schedule 1, after clause 3(1)(e), insert:

- (f) the water services entities in whose service area the local authority is located.

159 Schedule 4 amended

In Schedule 4, after clause 4(g), insert:

- (h) the stage 1 approvals obtained under **Part 10** of the Water Services Entities Act 2022.

Subpart 23—Amendments to Search and Surveillance Act 2012

160 Principal Act

This subpart amends the Search and Surveillance Act 2012.

161 Schedule amended

- (1) In the Schedule, after the item relating to section 110 of the Water Services Act 2021, insert:

111	Compliance officer may enter and inspect place and may exercise powers under section 107 of the Water Services Act 2021 for purposes of section 103(a) to (e) of that Act	All (other than subparts 2, 3, 6, and 8 and sections 118 and 119)
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- (2) In the Schedule, after the item relating to section 112 of the Water Services Act 2021, insert:

114	Specified person may enter and search place, vehicle, or other thing to ascertain whether person has engaged in or is engaging in conduct that contravenes legislative requirement or drinking water safety plan	Subpart 2 of Part 3 and Part 4 (except sections 118 and 119)
116	Conditions of entry, search, and seizure	Section 110(e)

- (3) In the Schedule, insert in their appropriate alphabetical order:

Water Services Entities Act 2022	368	Compliance officer may inspect and copy documents and direct person to produce documents, and may take photographs and make recordings and electronic records	Subpart 5
	369	Compliance officer may require person to provide person's name and residential address	Subpart 5
	370	Compliance officer may direct person to answer questions	Subpart 5
	371	Compliance officer may enter and inspect place and may exercise powers under section 367 of that Act for purposes of section 362(a) to (c) of that Act	All (other than subparts 2, 3, 6, and 8 and sections 118 and 119)
	372	Compliance officer may, without warrant, enter and search place and may exercise powers under sections 364 to 370 of that Act if officer believes, on reasonable grounds, that is required in relation to a specified serious risk	All (other than subparts 2, 3, 6, and 8 and sections 118 and 119)

374	Specified person may enter and search place, vehicle, or other thing to ascertain whether person has engaged in or is in engaging in conduct that contravenes compliance requirement	Subparts 3 and 4 (except sections 118 and 119)
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Subpart 24—Amendments to Social Security Act 2018

162 Principal Act

This subpart amends the Social Security Act 2018.

163 Section 65 amended (Accommodation supplement: discretionary grant)

- (1) In section 65(2), definition of **accommodation costs**, paragraph (a), replace “premises,” with “premises and any charges for water services that a tenant is responsible for.”
- (2) In section 65(2), definition of **accommodation costs**, paragraph (b), replace “and house insurance premiums,” with “house insurance premiums, and charges for water services,”.

Subpart 24A—Amendments to Taumata Arowai—the Water Services Regulator Act 2020

163A Principal Act

This subpart amends the Taumata Arowai—the Water Services Regulator Act 2020.

163B Section 4 amended (Interpretation)

- (1) In section 4, replace the definition of **stormwater network** with:

stormwater network—

- (a) means the infrastructure and processes that—
 - (i) are used to collect, treat, drain, store, reuse, or discharge stormwater in an urban area; and
 - (ii) are operated by, for, or on behalf of one of the following:
 - (A) a water services entity;
 - (B) a department;
 - (C) the New Zealand Defence Force; and
- (b) includes—
 - (i) an overland flow path;
 - (ii) green water services infrastructure that delivers stormwater services;

- (iii) watercourses that are part of, or related to, the infrastructure described in **paragraph (a)(i)**
- (2) In section 4, replace the definition of **stormwater network operator** with:
- stormwater network operator** means—
- (a) each of the following;(to the extent that a stormwater network is operated; or its operation or aspects of its operations are supervised by, for, or on behalf of it):
- (i) a water services entity;
- (ii) a department listed in Part 1 of Schedule 2 of the Public Service Act 2020;
- (iii) the New Zealand Defence Force; and
- (b) any person who operates a stormwater network, or any aspect of a stormwater network, for, or on behalf of, an organisation specified in **paragraph (a)**
- (2A) In section 4, replace the definition of **Te Mana o te Wai** with:
- Te Mana o te Wai**—
- (a) has the meaning set out in the national planning framework made by Order in Council under **section 34 of the Natural and Built Environment Act 2022**; and
- (b) applies, for the purposes of this Act, to water (as that term is defined in this section).
- (3) In section 4, replace the definition of **urban area** with:
- urban area** has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022
- (3A) In section 4, definition of **water**, paragraph (a), replace “section 2(1) of the Resource Management Act 1991” with “**section 7(1) of the Natural and Built Environment Act 2022**”.
- (4) In section 4, definition of **wastewater network**, replace paragraph (b)(i) with:
- (i) a water services entity;
- (5) In section 4, replace the definition of **wastewater network operator** with:
- wastewater network operator** means—
- (a) each of the following;(to the extent that a wastewater network is operated; or its operation or aspects of its operations are supervised by, for, or on behalf of it):
- (i) a water services entity;
- (ii) a department listed in Part 1 of Schedule 2 of the Public Service Act 2020;
- (iii) the New Zealand Defence Force; and

- (b) any person who operates a wastewater network, or any aspect of a wastewater network, for, or on behalf of, an organisation specified in **paragraph (a)**; and
- (c) an organisation or individual involved in the operation of a wastewater network if the organisation or individual is authorised or included on a register in accordance with regulations made under section 200 of the Water Services Act 2021
- (6) In section 4, insert in their appropriate alphabetical order:
- green water services infrastructure** has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022
- overland flow path** has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022
- watercourse** has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022
- water services entity** means a water services entity established under section 11 of the Water Services Entities Act 2022

Subpart 24B—Amendments to Te Awa Tupua (Whanganui River Claims Settlement) Act 2017

163C Principal Act

This subpart amends the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017.

163D Schedule 2 amended

- (1) In Schedule 2, after clause 1(u), insert:
- (ua) Taumata Arowai—the Water Services Regulator Act 2020:
- (2) In Schedule 2, after clause (1)(w), insert:
- (wa) Water Services Act 2021:
- (wb) Water Services Entities Act 2022:

Subpart 25—Amendment to Te Ture Whenua Maori Act 1993

164 Principal Act

This subpart amends Te Ture Whenua Maori Act 1993.

165 New section 26AAA and cross-heading inserted

After section 26, insert:

*Jurisdiction of court under Water Services Entities Act 2022***26AAA Jurisdiction of court under Water Services Entities Act 2022**

The court has exclusive jurisdiction to hear and determine all disputes or questions arising under **Part 6** of the Water Services Entities Act 2022, and to make orders under that Act, where the land to which the dispute, question, or order relates is Maori land.

Subpart 26—Amendments to Urban Development Act 2020

166 Principal Act

This subpart amends the Urban Development Act 2020.

167 Section 9 amended (Interpretation)

- (1) In section 9, repeal the definition of **wastewater services**.
- (2) In section 9, insert in their appropriate alphabetical order:

stormwater network has the same meaning as in section 5 of the Water Services Act 2021

wastewater network has the same meaning as in section 5 of the Water Services Act 2021

water services entity means a water services entity established under section 11 of the Water Services Entities Act 2022

water services infrastructure has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022

168 Section 23 amended (Duty to co-operate)

After section 23(1)(c), insert:

- (d) water services entities.

168A Section 62 amended (Further contents of development plan: funding)

After section 62(1), insert:

- (1A) If the sources of funding include a water infrastructure contribution, the development plan must refer to a water infrastructure contributions policy prepared by the water services entity under **section 346** of the Water Services Entities Act 2022.

169 Section 68 amended (Documents and other matters relevant to preparation of development plan)

After section 68(1)(b)(vii), insert:

- (viii) water services infrastructure connection requirements made under **Part 10** of the Water Services Entities Act 2022.

170 Section 142 amended (Interpretation for this subpart)

- (1) In section 142(1), definition of **controlling authority**, replace “territorial authority” with “territorial authority, water services entity”.
- (2) In section 142(1), replace the definition of **water-related infrastructure** with:
water-related infrastructure means infrastructure associated with, or necessary for, any of the following:
 - (a) three waters services:
 - (b) the supply of water through water races:
 - (c) drainage and rivers clearance.

171 Section 160 amended (Kāinga Ora responsible for costs of construction)

In section 160(2)(a), replace “territorial authority” with “territorial authority or water services entity”.

172 Section 161 amended (Limitations on power to alter water-related infrastructure Kāinga Ora does not control)

In section 161(3)(d), replace “relates to the quality of services” with “relates to Te Mana o te Wai or the quality of services”.

173 Section 164 amended (Ongoing application of section 181(4) of Local Government Act 2002 to transferred water-related infrastructure)

- (1) In the heading to section 164, replace “**section 181(4) of Local Government Act 2002**” with “**section 200 of Water Services Entities Act 2022**”.
- (2) Replace section 164(2) with:
 - (2) **Section 200** of the Water Services Entities Act 2022 applies as if that infrastructure were work constructed under that section.

174 Section 167 amended (Power of Kāinga Ora to propose bylaw change)

Replace section 167(1) with:

- (1) Once the development plan for a specified development project becomes operative, Kāinga Ora may propose a bylaw change that relates to roads, or junctions with roads, that are within the project area.

175 Section 179 amended (Bylaw-making authorities must consult Kāinga Ora on certain proposals)

In section 179, replace “that would affect roads or water-related infrastructure, or the construction of new roads or new water-related infrastructure,” with “that would affect roads, or the construction of new roads,”.

176 Section 186 amended (Order in Council may authorise Kāinga Ora to set rates)

In section 186(2), example 2, delete “A portion of the general rate set by a local authority is used to fund a wastewater system that serves the authority’s entire district.”.

177 Section 189 amended (Procedure for setting rates)

Repeal section 189(5)(b) and (7).

177A New subpart 3A of Part 4 inserted

After section 237, insert:

Subpart 3A—Water infrastructure contributions

237A Principles of water infrastructure contributions

Section 344 of the Water Services Entities Act 2022 applies to this subpart, with all necessary modifications, as if Kāinga Ora were a water services entity.

237B Meaning of development

In this subpart, **development** means any subdivision, building (within the meaning of section 8 of the Building Act 2004), land use, or work that generates a demand for water services infrastructure.

237C Kāinga Ora may require water infrastructure contributions

- (1) Kāinga Ora may require a water infrastructure contribution from the person undertaking a development if—
 - (a) the development plan for the project authorises Kāinga Ora to require water infrastructure contributions; and
 - (b) the effect of the development is to require new or additional assets or assets of increased capacity—
 - (i) in a project area; or
 - (ii) outside a project area if the assets directly benefit, or are required for, a development in the project area; and
 - (c) as a consequence, Kāinga Ora—
 - (i) incurs capital expenditure to provide appropriately for water services infrastructure; or
 - (ii) is liable to pay a water infrastructure contribution to the relevant water services entity.
- (2) This section does not prevent Kāinga Ora from requiring a water infrastructure contribution that is to be used to pay, in full or in part, for capital expenditure already incurred by Kāinga Ora in anticipation of the development.

- (3) In **subsection (1), effect** includes the cumulative effects that a development may have in combination with other developments.

Compare: 2002 No 84 s 199

237D Determining amount of water infrastructure contributions

Kāinga Ora must determine the amount of a water infrastructure contribution in accordance with the relevant water infrastructure contributions policy.

Compare: 2002 No 84 s 197(2)

237E When Kāinga Ora may charge for water infrastructure contribution

- (1) Kāinga Ora may charge a person who owns property in its project area for water infrastructure contributions required under **section 237C** when—
- (a) the person is granted—
 - (i) a resource consent under the ~~Resource Management Act 1991~~ **Natural and Built Environment Act 2022** for a development within its project area; or
 - (ii) a building consent under the Building Act 2004 for a development within its project area;
 - (b) the person's property is connected to a water service;
 - (c) an increase in commercial demand for water services occurs;
 - (d) a stage 1, 2, or 3 approval is granted under **Part 10** of the Water Services Entities Act 2022.
- (2) However, Kāinga Ora may charge a person who owns property for a water infrastructure contribution only if it is consistent with the relevant water infrastructure contributions policy adopted under **section 346** of the Water Services Entities Act 2022 that was in force at the time—
- (a) the person submitted an application (with all of the required information) for a resource consent, building consent, or stage 1, 2, or 3 approval; or
 - (b) the person's property was connected to a water service; or
 - (c) the increase in commercial demand for water services occurred.
- (3) A person who owns property and Kāinga Ora may agree that—
- (a) any unpaid water infrastructure contributions may be paid off in quarterly or annual instalments over an agreed period (not exceeding 50 years);
 - (b) Kāinga Ora may charge an agreed rate of interest on any unpaid balance.
- (4) Kāinga Ora may refuse to connect a property to water services if the person who owns property has not—
- (a) paid their water infrastructure contribution; or
 - (b) agreed to an instalment plan.

- (5) Kāinga Ora may charge a rate of interest on the unpaid balance with the rate agreed with the person who owns property when the agreement is put in place.
- (6) Kāinga Ora must register any unpaid balance against the relevant land under the Land Transfer Act 2017 on the title of the land in respect of which the water infrastructure contribution was required.
- (7) If the property subject to the agreement is sold, the new owner of the property is liable to pay the unpaid water infrastructure contributions in accordance with the agreement under **subsection (3)**.
- (8) A person who Kāinga Ora charges for a water infrastructure contribution may apply to Kāinga Ora under **section 446** of the Water Services Entities Act 2022 for a review of the decision to charge that person on any ground set out in **section 237H**.
- (9) For the purposes of **subsection (8)**, **sections 446 to 449** of the Water Services Entities Act 2022 apply as if Kāinga Ora were a water services entity.
- (10) A person who has paid all or part of a water infrastructure contribution is entitled to a refund of the payment from Kāinga Ora if—
 - (a) Kāinga Ora does not use the water infrastructure contribution for the purpose for which it was charged; or
 - (b) the relevant resource consent or building consent lapses; or
 - (c) the development does not proceed.
- (11) Despite anything in **subsection (10)**, Kāinga Ora may retain any portion of a water infrastructure contribution that is equivalent in value to the costs incurred by Kāinga Ora in relation to a development that does not proceed.
- (12) A relevant water services entity may, as appropriate and by agreement with Kāinga Ora, exercise the powers under **subsection (1)** on Kāinga Ora's behalf.
- (13) For the purposes of this section, a **person who owns property** includes a person who leases property under a lease that requires the person to pay charges to a water services entity that the owner of the property would otherwise pay.

Compare: 2002 No 84 s 198

Use of water infrastructure contributions

237F Use of water infrastructure contributions by Kāinga Ora

- (1) If a water infrastructure contribution is required by Kāinga Ora under **section 237C(1)(c)(i)**, the contribution must be used for or towards the capital expenditure on the water services infrastructure.
- (2) If a water infrastructure contribution is required by Kāinga Ora under **section 237C(1)(c)(ii)**, the contribution must be used for or towards the payment of the water infrastructure contribution for which it was required.

- (3) **Subsection (1)** is subject to **section 237G**.

Compare: 2002 No 84 s 204

Objections to water infrastructure contributions

237G Right to object to assessed amount of water infrastructure contribution

- (1) A person may object, on any ground set out in **section 237H**, to the assessed amount of the water infrastructure contribution that Kāinga Ora has charged the person under **section 237E**, advised in—
- (a) a notice given to the person for that purpose by Kāinga Ora; or
 - (b) if notice has not been given, such other formal advice of the requirement that Kāinga Ora has given to the person.
- (2) The right of objection conferred by this section does not apply to challenges to the content of a water infrastructure contributions policy prepared in accordance with **section 346** of the Water Services Entities Act 2022.

237H Scope of water infrastructure contribution objections

- (1) An objection under **section 237G** may be made only on the grounds that—
- (a) Kāinga Ora has—
 - (i) failed to properly take into account features of the objector’s development or increased commercial demand that, on their own or cumulatively with those of other developments or increased commercial demand from other properties, would substantially reduce the impact of the development or increased demand on requirements for assets in Kāinga Ora’s project area or parts of that project area; or
 - (ii) required a water infrastructure contribution for assets not required by, or related to, the objector’s development or increased commercial demand, whether on its own or cumulatively with other developments or increased commercial demand from other properties; or
 - (iii) already required a water infrastructure contribution for the same purpose in respect of the same development or increased commercial demand; or
 - (iv) incorrectly applied the relevant water infrastructure contributions policy to the objector’s development or increased commercial demand; or
 - (b) the objector will fund or otherwise provide for the same assets for which the water infrastructure contribution had been required.
- (2) However, an objection may not be made on the ground outlined in **subsection (1)(a)(iii)** if Kāinga Ora has required an additional water infrastructure contribution to reflect an increase in the scale or intensity of the development or fur-

ther increase in commercial demand since the original contribution was required.

237I Procedure for water infrastructure contribution objections

Sections 199H, 199I, 199K, 199L, 199M, 199N, and 199O and Schedule 13A of the Local Government Act 2002 apply to objections under **section 237G** with all necessary modifications, including the following:

- (a) a reference to a territorial authority must be read as a reference to Kāinga Ora (except in clause 9(4)(c) of Schedule 13A of that Act):
- (b) a reference to a district must be read as a reference to a project area:
- (c) a reference to a development contribution must be read as a reference to a water infrastructure contribution:
- (d) a reference to a development contribution objection must be read as a reference to a water infrastructure contribution objection:
- (e) a reference to a development contributions policy must be read as a reference to a relevant water infrastructure contributions policy:
- (f) the right to lodge a development contribution objection under section 199C of that Act must be read as the right to lodge a water infrastructure contribution objection under **section 237G** of this Act:
- (g) the notice of the outcome of a reconsideration under section 199B of the Local Government Act 2002 must be read as the notice of decision on internal review under **section 448** of the Water Services Act 2022:
- (h) a reference to section 150A of the Local Government Act 2002 must be read as a reference to **section 237L** of this Act.

237J Consideration of water infrastructure contribution objection

When considering a water infrastructure contribution objection and any evidence provided in relation to that objection, development contributions commissioners must give due consideration to the following:

- (a) the grounds on which the water infrastructure contribution objection was made:
- (b) the purpose and principles of water infrastructure contributions under **sections 343 and 344** of the Water Services Entities Act 2022:
- (c) the provisions of the water infrastructure contributions policy under which the water infrastructure contribution that is the subject of the objection was, or is, required:
- (d) the cumulative effects of the objector's development or increased commercial demand in combination with the other developments or increased commercial demand in a project area or parts of a project area, on the requirement to provide the assets that the water infrastructure contribution is to be used for or toward:

- (e) any other relevant factor associated with the relationship between the objector's development or increased commercial demand and the water infrastructure contribution to which the objection relates.

237K Interim effect of water infrastructure contribution objection

- (1) If a water infrastructure contribution objection is lodged, Kāinga Ora may still require the water infrastructure contribution to be made, but must not use it until the objection has been determined.
- (2) If Kāinga Ora does not require a water infrastructure contribution to be made pending the determination of an objection, Kāinga Ora may withhold granting a service connection until the objection has been determined.

237L Costs of water infrastructure contribution objections

- (1) If a person objects to Kāinga Ora's requirement that a water infrastructure contribution be made, Kāinga Ora may recover from the person its actual and reasonable costs in respect of the objection.
- (2) The costs that Kāinga Ora may recover under this section are the costs incurred by it in respect of—
 - (a) selecting, engaging, and employing the development contributions commissioners; and
 - (b) ~~providing for the secretarial and administrative support of~~ for the objection process; and
 - (c) preparing for, organising, and holding the hearing.
- (3) Kāinga Ora may, in any particular case and in its absolute discretion, waive or remit the whole or any part of any costs that would otherwise be payable under this section.
- (4) Kāinga Ora's actual and reasonable costs in respect of objections are recoverable as a debt due to Kāinga Ora in a court of competent jurisdiction.

Other matters

237M Consequences if water infrastructure contribution unpaid

- (1) Until a water infrastructure contribution required by Kāinga Ora has been paid, Kāinga Ora may,—
 - (a) in the case of a water infrastructure contribution required when a resource consent is granted,—
 - (i) ~~withhold a certificate under section 224(c) of the Resource Management Act 1991~~ **section 574 of the Natural and Built Environment Act 2022**; or
 - (ii) prevent the commencement of a resource consent under that Act; or

- (b) in the case of a water infrastructure contribution required when a building consent is granted, require that a code compliance certificate under section 95 of the Building Act 2004 be withheld; or
 - (c) in the case of a water infrastructure contribution required when an authorisation for a service connection is granted, withhold a service connection to the development.
- (2) A relevant territorial authority, a water services entity, or a building consent authority may, as appropriate and by agreement with Kāinga Ora, exercise the powers under **subsection (1)** on Kāinga Ora's behalf.

Compare: 2002 No 84 s 208

237N Development agreements

- (1) Kāinga Ora may enter into a development agreement instead of, or in addition to, requiring a water infrastructure contribution.
- (2) The development agreement must include—
 - (a) a description of the land to which the agreement relates, including its legal description; and
 - (b) details of the water services infrastructure that each party will pay for or provide.
- (3) The development agreement is a legally enforceable contract once it is signed by all parties who will be bound by the agreement.
- (4) The development agreement must not require a person to—
 - (a) grant a resource consent; or
 - (b) issue a building consent under the Building Act 2004; or
 - (c) issue a code of compliance under the Building Act 2004; or
 - (d) grant a certificate under ~~section 224 of the Resource Management Act 1991~~ **section 574 of the Natural and Built Environment Act 2022**; or
 - (e) issue an authorisation for a service connection.
- (5) A person may not refuse to grant or issue anything referred to in **subsection (4)** on the basis that a development agreement has not been entered into under this section.

237O Transfer of previous water infrastructure contributions to Kāinga Ora

- (1) This section applies if—
 - (a) a water services entity has received or is owed a water infrastructure contribution under the Water Services Entities Act 2022; and
 - (b) Kāinga Ora becomes responsible for capital expenditure on the asset for which the contribution was required.

- (2) A relevant water services entity may transfer either or both of the following to Kāinga Ora:
- (a) any amount of the water infrastructure contribution that has been paid to the water services entity;
 - (b) the right to be paid any amount of the water infrastructure contribution that is yet to be paid to the water services entity.
- (3) Any amount of a water infrastructure contribution that is transferred to Kāinga Ora, or that Kāinga Ora receives under a right to be paid, must be treated as if it were part of a water infrastructure contribution that was required by Kāinga Ora under this subpart.

182 Schedule 2 amended

In Schedule 2, clause 2, definition of **transferee**, after paragraph (c), insert:

- (ca) a water services entity:

Subpart 27—Amendments to Utilities Access Act 2010

183 Principal Act

This subpart amends the Utilities Access Act 2010.

184 Section 4 amended (Interpretation)

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

- (d) in relation to water services infrastructure,—
- (i) a water services entity established under section 11 of the Water Services Entities Act 2022; or
 - (ii) a responsible SPV that is responsible for the construction of eligible infrastructure under the Infrastructure Funding and Financing Act 2020:

- (2) In section 4, insert in its appropriate alphabetical order:

water services has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022

Subpart 27A—Amendment to Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

184A Principal Act

This subpart amends the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

184B Section 17 amended (Duty to have particular regard to vision and strategy)

After section 17(7), insert:

- (8) **Subsection (9)** applies to a person carrying out functions or exercising powers under an enactment specified in **subsection (10)** if the functions or powers relate to—
- (a) the Waikato River; or
 - (b) activities in the catchment that affect the Waikato River.
- (9) Except as otherwise expressly provided in this Act, the person must have particular regard to the vision and strategy in addition to any requirement specified in the enactment for the carrying out of the functions or the exercise of the powers.
- (10) The enactments are—
- (a) the Taumata Arowai—the Water Services Regulator Act 2020; and
 - (b) the Water Services Act 2021; and
 - (c) the Water Services Entities Act 2022.

Subpart 28—Amendments to Water Services Act 2021

185 Principal Act

This subpart amends the Water Services Act 2021.

185A Section 2 replaced (Commencement)

Replace section 2 with:

2 Commencement

- (1) ~~Sections 185, 186, 188, 191, 192, 193, 196, and 200 come into force on the date on which the Water Services Legislation Act 2022 receives the Royal assent.~~
- (2) ~~Sections 187, 194, 195, 198, 199, and 201 come into force on 1 July 2024.~~
- (3) ~~Section 197 comes into effect on 4 October 2023.~~
- (4) ~~The rest of this Act comes into force on the earlier of—~~
 - (a) ~~a date appointed by the Governor-General by Order in Council; and~~
 - (b) ~~the date that is 2 years after the date on which this Act receives the Royal assent.~~
- (5) ~~One or more Orders in Council may be made under **subsection (4)(a)** appointing different dates for different provisions.~~
- (6) ~~An Order in Council made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).~~

186 Section 3 amended (Purpose of this Act)

After section 3(2)(b), insert:

- (ba) to ensure that a quantity of drinking water sufficient to support the ordinary drinking water and sanitary needs of consumers is provided to each point of supply; and

187 Section 5 amended (Interpretation)

- (1) In section 5, replace the definition of **stormwater network** with:

stormwater network—

- (a) means the infrastructure and processes that—
 - (i) are used to collect, treat, drain, store, reuse, or discharge stormwater in an urban area; and
 - (ii) are owned or operated by, for, or on behalf of one of the following:
 - (B) a water services entity;
 - (C) a department;
 - (D) the New Zealand Defence Force; and
- (b) includes—
 - (i) an overland flow path;
 - (ii) green water services infrastructure that delivers stormwater services;
 - (iii) watercourses that are part of, or related to, the infrastructure described in **paragraph (a)**

- (1A) In section 5, replace the definition of **stormwater network operator** with:

stormwater network operator means—

- (a) each of the following; (to the extent that a stormwater network is operated, or its operation or aspects of its operations are supervised by, for, or on behalf of it):
 - (i) a water services entity;
 - (ii) a department;
 - (iii) the New Zealand Defence Force; and
- (b) any person who operates a stormwater network, or any aspect of a stormwater network, for, or on behalf of, an organisation specified in **paragraph (a)**

- (2) In section 5, replace the definition of **urban area** with:

urban area has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022

- (3) In section 5, definition of **wastewater network**, replace paragraph (b)(i) with:

- (i) a water services entity;

- (4) In section 5, replace the definition of **wastewater network operator** with:

wastewater network operator means—

- (a) each of the following; (to the extent that a wastewater network is operated, or its operation or aspects of its operations are supervised by, for, or on behalf of it):
 - (i) a water services entity;
 - (ii) a department;
 - (iii) the New Zealand Defence Force; and
- (b) any person who operates a wastewater network, or any aspect of a wastewater network, for, or on behalf of, an organisation specified in **paragraph (a)**; and
- (c) an organisation or individual involved in the operation of a wastewater network if the organisation or individual is authorised or included on a register in accordance with regulations made under section 200

(4A) In section 5, definition of **water**, paragraph (a), replace “section 2(1) of the Resource Management Act 1991” with “**section 7(1) of the Natural and Built Environment Act 2022**”.

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

green water services infrastructure has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022

marae includes the area of land on which all buildings such as wharenui, wharekai, wharepaku, papakāinga, and any other associated buildings are situated

overland flow path has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022

trade waste has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022

watercourse has the same meaning as in **section 6(1)** of the Water Services Entities Act 2022

water services entity means a water services entity established under section 11 of the Water Services Entities Act 2022

187A Section 14 amended (Te Mana o te Wai: meaning, application, effect)

Replace section 14(1) with:

(1) In this Act, **Te Mana o te Wai**—

- (a) has the meaning set out in the national planning framework made by Order in Council under **section 34 of the Natural and Built Environment Act 2022**; and
- (b) applies, for the purposes of this Act, to water (as that term is defined in section 5 of this Act).

188 Section 25 amended (Duty to provide sufficient quantity of drinking water)

- (1) In section 25(2)(a), after “ordinary drinking water”, insert “and sanitary”.
- (2) After section 25(8), insert:
- (9) Nothing in this section limits or affects the power of a compliance officer appointed under the Water Services Entities Act 2022 to restrict the water supply to land or a building under **section 363** of that Act.

189 Section 26 amended (Duties where sufficient quantity of drinking water at imminent risk)

- (1) In section 26(1)(a), replace “local authorities” with “water services entities and regional councils”.
- (2) Replace section 26(1)(b) with:
 - (b) request that the water services entities responsible for the area exercise their powers under any legislation (for example, by setting and implementing a water restriction in the area) to assist that supplier to continue to provide a sufficient quantity of drinking water; and

190 Section 29 amended (Duty of officers, employees, and agents to exercise due diligence)

In section 29(3), replace “council-controlled organisation complies with its duties under legislative requirements, unless that member is also an officer of that council-controlled organisation” with “water services entity complies with its legislative requirements”.

191 Section 33 amended (Planned events)

After section 33(5)(b), insert:

- (c) any directions issued by a compliance officer under section 104.

192 Section 34 amended (Unplanned supply of drinking water)

In section 34(3)(b), replace “issued by Taumata Arowai” with “issued by a compliance officer”.

193 New section 35A inserted (Water services entity or regional council may be required to warn users of domestic self-supply about contamination)

After section 35, insert:

35A Water services entity or regional council may be required to warn users of domestic self-supply about contamination

- (1) This section applies if a medical officer of health or Taumata Arowai believes that a source of water for domestic self-supply is contaminated in a way that affects, or is likely to affect, that domestic self-supply.

- (2) The medical officer of health or Taumata Arowai may issue a notice to the water services entity responsible for the service area or to the regional council responsible for the area to which water is supplied from that source, or to both.
- (3) A water services entity or regional council that receives a notice under **subsection (2)** must—
- (a) ensure that an assessment is made as to whether any domestic self-supply is abstracting or otherwise receiving unsafe water from the source specified in the notice; and
 - (b) if that assessment so requires, take all practicable steps—
 - (i) to warn users of that supply—
 - (A) that drinking water must not be used for domestic use and food preparation; or
 - (B) that drinking water may only be used for domestic use and food preparation if certain steps are first taken (for example, boiling the water); and
 - (ii) to exercise any other power or take any action to remedy the situation.

194 Section 49 amended (Compliance rules)

- (1) In section 49(1)(b), delete “(for example, local authorities)”.
- (2) In section 49(4)(b), replace “individual water supply or local authority” with “individual drinking water supply or supplier”.

195 Section 62 amended (Special powers of Taumata Arowai during drinking water emergency)

- (1) In section 62(2)(f), replace “territorial authority” with “water services entity”.
- (2) Replace section 62(2)(g) with:
 - (g) direct a water services entity to supply drinking water to affected persons (whether in the service area of that entity authority or the service area of another water services entity):

196 Section 104 amended (Directions)

In section 104(1), replace “section 34” with “section 33 or 34”.

197 New subpart 7A heading in Part 3 and new section 139A inserted

After section 139, insert:

Subpart 7A—Provisions relating to stormwater networks

139A Stormwater environmental performance standards

- (1) Taumata Arowai may, after carrying out consultation under section 53 with each stormwater network operator, regional council, mana whenua, and any

- other person it considers appropriate, make stormwater environmental performance standards, including (without limitation) standards relating to—
- (a) the environmental performance of the stormwater network, including the quality and quantity of stormwater:
 - (b) inundation of people and property as a result of the performance of the stormwater networks:
 - (c) discharges to air, water, or land.
- (2) Stormwater environmental performance standards may include (without limitation) requirements, limits, conditions, or prohibitions.
- (3) Stormwater environmental performance standards—
- (a) may apply—
 - (i) to all stormwater networks and their operators; or
 - (ii) to classes of stormwater network and their operators; but
 - (b) must not apply to an individual stormwater network or stormwater network operator.
- (4) Stormwater environmental performance standards made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

198 Section 140 amended (Interpretation)

- (1) In section 140, replace the definition of **drinking water network** with:
- drinking water network** means a drinking water supply that is operated by, for, or on behalf of, or whose operation or aspects of whose operation are supervised by, one of the following:
- (a) a water services entity:
 - (b) a department:
 - (c) the New Zealand Defence Force
- (2) In section 140, replace the definition of **drinking water network operator** with:
- drinking water network operator** means—
- (a) each of the following, (to the extent that a drinking water network is operated; or its operation or aspects of its operations are supervised by, for, on behalf of it):
 - (i) a water services entity:
 - (ii) a department:
 - (iii) the New Zealand Defence Force; and

- (b) any person who operates a drinking water network, or any aspect of a drinking water network, for, or on behalf of, an organisation specified in **paragraph (a)**

198A Section 146 amended (Record-keeping requirements for monitoring and reporting purposes)

After section 146(1)(c), insert:

- (d) for stormwater network operators, stormwater environmental performance standards.

199 Section 148 amended (Further provisions relating to reporting)

- (1) In section 148(1), replace “141” with “147”.
- (2) In section 148(2), replace “141” with “137”.

200 Section 205 amended (Publication of instruments)

Replace section 205(1) with:

- (1) Taumata Arowai must ensure that the following instruments are published in accordance with subsection (2):
 - (a) templates and models issued under section 52:
 - (b) a drinking water compliance, monitoring, and enforcement strategy prepared under section 136:
 - (c) an annual drinking water regulation report prepared under section 137:
 - (d) environmental performance measures or targets for networks developed under section 145:
 - (e) an annual report on networks under section 147.

201 Section 211 repealed (Section 146 amended (Specific bylaw-making powers of territorial authorities))

Repeal section 211.

Subpart 29—Amendments to secondary legislation

202 Amendments to secondary legislation

Amend the secondary legislation specified in **Schedule 4** as set out in that schedule.

Subpart 30—Repeals

203 Repeals

The following are repealed:

- (a) Dunedin City (Suburban Water Charges) Empowering Act 1937 (1937 No 9 ~~L~~):

-
- (b) Eltham Borough Drainage and Water-supply Empowering Act 1905 (1905 No 4 ~~L~~):
 - (c) Hauraki Plains County Council Empowering (Kerepehi Sewerage Works) Act 1975 (1975 No 13 ~~L~~):
 - (d) Hauraki Plains County Eastern Water-supply Empowering Act 1935 (1935 No 3 ~~L~~):
 - (e) Hawera Borough Drainage Empowering Act 1900 (1900 No 21 ~~L~~):
 - (f) Makerua Drainage Board Empowering Act 1952 (1952 No 8 ~~L~~):
 - (g) Nelson Waterworks Act 1863 (1863 No 1 ~~L~~):
 - (h) Nelson Waterworks Extension Act 1935 (1935 No 5 ~~L~~):
 - (i) Onerahi Water Reserve Enabling Act 1928 (1928 No 9 ~~L~~):
 - (j) Paeroa Borough Water-supply Empowering Act 1947 (1947 No 5 ~~L~~):
 - (k) Paeroa Water-supply Transfer Validation Act 1922 (1922 No 23 ~~L~~):
 - (l) Tararua District Council (Rates Validation and Empowering) Act 1996 (1996 No 7 ~~L~~):
 - (m) Thames Water Supply Transfer Act 1880 (1880 No 7 ~~L~~):
 - (n) Timaru Borough Drainage, Sewerage, and Loans Act 1905 (1905 No 5 ~~L~~):
 - (o) Timaru Water-Race Reserve Act 1881 (1881 No 11 ~~L~~):
 - (p) Wellington Regional Council (Water Board Functions) Act 2005 (2005 No 1 ~~L~~):
 - (q) Wellington Regional Water Board Act 1972 (1972 No 3 ~~L~~).

Schedule 1
New Part 2 inserted into Schedule 1 of Water Services Entities Act
2022

s 23

Part 2

Provisions relating to Water Services Legislation Act 2022

38 Interpretation

In this **Part**, unless the context otherwise requires,—

Act means the Water Services Entities Act 2022

allocation schedule has the meaning given in clause 6(3)

amendment Act means the **Water Services Legislation Act 2022**

assets, liabilities, and other matters has the meaning given in clause 1

bylaw has the same meaning as in section 5(1) of the Local Government Act 2002 and includes—

- (a) a set of bylaws; and
- (b) an individual bylaw in a set of bylaws; and
- (c) a provision within an individual bylaw

council-controlled organisation has the meaning given in clause 1

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

development contributions requirements means the requirements established under subpart 5 of Part 8 of the Local Government Act 2002

establishment chief executive means a person appointed under clause 4(1)

establishment date, for a water services entity, has the meaning given in clause 1 set out in **section 6(1)**

establishment period, for a water services entity, has the meaning given in clause 1 set out in **section 6(1)**

financial contributions requirements means the requirements established under sections 77E, 77F, 80E, 108, 110, 111, 222, 409, and 411 of the Resource Management Act 1991

local government organisation has the meaning given in clause 1

mixed-use water services asset or property, of a local government organisation,—

- (a) means any asset or property that has more than 1 purpose or use but whose primary purpose or predominant use is the delivery of water services; but

(b) does not include a transport stormwater system

relationship agreement means an agreement entered into under **section 199A**

relevant water services entity, in relation to a territorial authority, means the water services entity named in Schedule 2 whose service area includes the district of that territorial authority

territorial authority owners has the meaning given in **section 6(1)**

transport stormwater system has the meaning given in **section 6(1)**.

38A References to **Natural and Built Environment Act 2022** where provision not yet in force

(1) This clause applies to any reference in this Act or other legislation (as amended by the amendment Act) to a provision (or provisions) of the **Natural and Built Environment Act 2022** (the NBEA) where the relevant provision of the NBEA—

(a) is not in force; or

(b) does not yet apply in relation to a region (for example, because a plan under that Act for the region has not been made or does not yet have effect).

(2) Until the relevant provision of the NBEA is in force or applies in relation to the relevant region, the reference must be read as if the amendment had not been made and the corresponding provision (or provisions) in the Resource Management Act 1991 (if any) applies.

Compare: 2022 No XX Schedule 1, cl 72

Further provisions relating to allocation schedule

39 **Consultation on allocation schedule**

Before finalising an allocation schedule of a water services entity, ~~an establishment chief executive~~ the board of the water services entity must—

(a) provide each local government organisation in the service area of the water services entity with a copy of a draft allocation schedule; and

(b) give those local government organisations a reasonable opportunity to make written comments on the draft; and

(c) consider any comments received and make any amendments to the draft that the ~~establishment chief executive~~ board considers appropriate; and

(d) inform each local government organisation in writing of the reasons for any amendments made to the draft as a result of any comments received.

40 Ministerial approval of allocation schedule

- (1) After complying with **clause 39**, the ~~establishment chief executive~~ the board of the water services entity must submit the draft allocation schedule for the water services entity to the Minister for approval.
- (2) The Minister may approve the allocation schedule after making any amendments that the Minister considers appropriate.
- (3) Before amending a draft allocation schedule, the Minister must—
 - (a) provide a copy of the proposed amendment to each local government organisation in the service area of the water services entity to which the schedule applies; and
 - (b) give those local government organisations a reasonable opportunity to make written comments on the proposed amendment; and
 - (c) inform those local government organisations in writing of the reasons for any changes made to the proposed amendment as a result of any comments received.
- (4) However, the Minister need not comply with **subclause (3)** if the amendment—
 - (a) has no more than a minor effect; or
 - (b) corrects errors or makes similar technical alterations.

*Application of certain provisions of this Schedule***40A Application of certain provisions of this Schedule to council-controlled organisations and subsidiaries***~~Citycare~~City Care*

- (1) On and after the commencement of this clause, the following provisions of this schedule do not apply to ~~Citycare~~ City Care:
 - (a) clause 5 (establishment chief executive must prepare allocation schedule) and related provisions;
 - (b) clauses 22 to 29 (review of employment positions);
 - (c) clauses 30 to 33 (oversight powers of department);
 - (d) **clauses 42 to 47** (transfer of assets, liabilities, and other matters of local government organisation to water services entity);
 - (e) **clauses 52 and 53** (directions).

Other council-controlled organisations and their subsidiaries

- (2) On and after the commencement of this clause, the provisions specified in **subclause (1)(a) to (e)** apply to a council-controlled organisation (other than ~~Citycare~~ City Care) or a subsidiary of that council-controlled organisation (other than a subsidiary of ~~Citycare~~ City Care) only if its predominant purpose is pro-

viding services to a territorial authority that support the delivery of water services by the territorial authority.

- (3) The Governor-General may, by Order in Council made on the recommendation of the Minister, specify the council-controlled organisations or the subsidiaries of the council-controlled organisations to be excluded from the application of the provisions specified in **subclause (1)(a) to (e)**.
- (4) An order under this clause may be made before ~~the establishment date~~ **1 July 2026**.
- (5) For the purposes of **subclause (2)**, **predominant purpose** means 85% or more of the council-controlled organisation's or subsidiary's revenue is attributable to providing those services.
- (6) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (7) In this clause, ~~Citycare~~ **City Care** means ~~Citycare~~ City Care Limited and each of its subsidiaries.

Transfer of assets, liabilities, and other matters of local government organisation to water services entity

41 Application of clauses 42 to 47

Clauses 42 to 47 apply in respect of a local government organisation within the service area of a water services entity.

42 Transfer of assets, liabilities, and other matters to water services entity by Order in Council

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
 - (a) vest in a water services entity or any subsidiary any specified assets, liabilities, and other matters of a local government organisation that—
 - (i) are identified in the allocation schedule for the water services entity; and
 - (ii) relate wholly to the provision of water services by the local government organisation:
 - (b) vest in a water services entity or any subsidiary any specified assets, liabilities, and other matters of a local government organisation that—
 - (i) are identified in the allocation schedule for the water services entity; and
 - (ii) relate partly to the provision of water services by the organisation and partly to the provision of other services by the local government organisation:

- (c) vest in a water services entity assets that are wholly related to the provision of rural mixed-use drinking water:
 - (d) vest in a water services entity or any subsidiary any specified assets, liabilities, and other matters owned by a local government organisation that are located outside that service area of the water services entity:
 - (e) specify assets, liabilities, and other matters of a local government organisation that are identified in the allocation schedule for the water services entity that do not vest in the water services entity:
 - (f) subdivide the land to be transferred to a water services entity and to create titles for the subdivisions of that land.
- (2) For the purposes of **subclause (1)(c)**, **assets that are wholly related to the provision of rural mixed-use drinking water** means assets that provide—
- (a) drinking water; and
 - (b) 1 or both of the following:
 - (i) agricultural water:
 - (ii) horticultural water.
- (3) ~~Nothing in section 11 or Part 10 of the Resource Management Act 1991~~ **section 18 or Part 9 of the Natural and Built Environment Act 2022** or section 348 of the Local Government Act 1974 applies to the transfer of land or an interest in land to a water services entity by an order made under **subclause (1)**.
- (4) ~~An order made under this clause must be made on or before the establishment date.~~
- (4) An order made under this clause must—
- (a) relate to a particular water services entity; and
 - (b) be made on or before the water services entity’s establishment date.
- (5) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- Compare: 2009 No 13 s 36
- 43 Transfer of other assets, liabilities, and other matters to water services entity**
- (1) ~~On the~~ a water services entity’s establishment date,—
- (a) all assets owned or controlled by the local government organisation that are wholly related to the provision of water services vest in the water services entity:
 - (b) all property owned or controlled by a local government organisation that is wholly related to the provision of water services vest in the water services entity:

- (c) all mixed-use water services assets or property owned or controlled by the local government organisation vest in the water services entity:
 - (d) all assets that are wholly related to the provision of rural mixed-use drinking water by the local government organisation vest in the water services entity:
 - (e) all rights, liabilities, contracts, information, interests, entitlements, and engagements of the local government organisation that are wholly related to the provision of water services become rights, liabilities, contracts, information, interests, entitlements, and engagements of the water services entity:
 - (f) all statutory approvals and consents (for example, resource consents) granted or issued to the local government organisation wholly related to the provision of water services vest in the water service entity:
 - (g) all easements, encumbrances, access licences, and leases granted or issued to the local government organisation wholly related to the provision of water services vest in the water services entity.
- (2) **Subclause (1)**—
- (a) applies in respect of assets, liabilities, and other matters of a local government organisation except to the extent that an Order in Council made under this **Part** provides otherwise:
 - (b) does not apply in respect of—
 - (i) a transport stormwater system:
 - (ii) any assets, liabilities, and other matters of a local government organisation that relate to the provision of stormwater services outside of an urban area:
 - (iii) any charges or debts payable to or by a local government organisation in respect of the provision of water services before the water services entity's establishment date:
 - (iv) assets, liabilities, and other matters of a local government organisation specified in an order made under **clause 42(1)(d)**.
- 44 Dispute resolution relating to transfer of assets, liabilities, and other matters under clause 43**
- (1) This clause applies if a dispute arises in relation to the transfer, or proposed transfer, of any asset, liability, or other matter of a local government organisation to a water services entity under **clause 43**.
 - (2) Either or both of the parties may refer the dispute to arbitration under the Arbitration Act 1996.
 - (3) The arbitration decision is binding on both parties and determines who owns the asset, liability, or other matter.

45 Exception to clause 43 relating to shares in council-controlled organisations

- (1) This clause applies to any council-controlled organisation involved in the provision of water services in which—
 - (a) at least 1 of the shareholders of the council-controlled organisation is a local government organisation; and
 - (b) at least 1 of the shareholders of the council-controlled organisation is not a local government organisation.
- (2) If this clause applies,—
 - (a) **clause 42** applies to the transfer of the shares in the council-controlled organisation that a local government organisation holds in the relevant water services entity:
 - (b) **clause 43** does not apply.

46 Effect of transfers under clause 42 or 43*Application of Public Works Act 1981*

- (1) Despite section 4(4) of the Finance Act 1990 and section 24(4) of the State-Owned Enterprises Act 1986, nothing in sections 40 and 41 of the Public Works Act 1981 applies to the transfer of assets, liabilities, and other matters from a local government organisation to a water services entity under **clause 42 or 43**.
- (2) However, after that transfer, sections 40 and 41 of the Public Works Act 1981 apply to those assets, liabilities, and other matters as if the transfer from the local government organisation to the water services entity had not taken place.
- (3) If any land transferred to a water services entity under **clause 42 or 43** is a reserve under the Reserves Act 1977,—
 - (a) the reservation classification of the land is deemed to be revoked on the transfer date; and
 - (b) the land is to be treated as being held by the water services entity under the Public Works Act 1981 for water services purposes on and after that date.

General

- (4) Nothing effected or authorised by **clause 42 or 43**—
 - (a) is to be treated as placing a person in breach of, or in default under, any contract, or in breach of trust, or in breach of confidence, or as otherwise making the person guilty of a civil wrong; or
 - (b) gives rise to a right for a person to—
 - (i) terminate, cancel, or modify a contract, an agreement, or an arrangement; or
 - (ii) enforce or accelerate the performance of an obligation; or

(iii) require the performance of an obligation not otherwise arising for performance; or

- (c) releases a surety wholly or in part from all or any obligation; or
- (d) invalidates or discharges any contract or security.

47 Existing proceedings and other matters

- (1) On and after ~~the~~ a water services entity's establishment date,—
- (a) any existing debts, penalties, charges, fines, fees, or obligations to do or not to do anything wholly related to the provision of water services arising from an act or omission by, or in relation to, a local government organisation, that are due and payable before the water services entity's establishment date, remain due and payable by the local government organisation; and
 - (b) any proceedings by or against a local government organisation that are wholly related to the provision of water services by that organisation must be continued or enforced by or against the water services entity without amendment to the proceedings; and
 - (c) a matter or thing that would, but for this clause, have been completed by the local government organisation relating to the provision of water services must be completed by the water services entity; and
 - (d) anything done, or omitted to be done, or that is to be done in relation to, a local government organisation and that is wholly related to the provision of water services by that organisation is to be treated as having been done, or having been omitted to be done, or to be done by the water services entity.
- (2) In **subclause (1)(b), proceedings**—
- (a) means civil and criminal proceedings; and
 - (b) includes any enforcement or compliance action against the local government organisation.

Compare: 2020 No 38 Schedule 1 cl 36

48 Updating titles to land

- (1) The Registrar-General of Land must, on written application by any person authorised by a water services entity and on payment of any prescribed fee,—
- (a) register the water services entity, in substitution for the local government organisation, as the proprietor of the estate or the interest of the local government organisation in any registered land or interest in registered land transferred to the water services entity under this Act; and
 - (b) make the entries in the register and generally do all the things as may be necessary to give effect to this clause.

- (2) The Registrar-General of Land or any other person charged with keeping books or registers is not required to change, in those books or registers or in a document, the name of the local government organisation to the water services entity solely because of **clause 42 or 43**.
- (3) If a water services entity presents an instrument referred to in **subclause (4)** to a Registrar or another person, the presentation of that instrument by the water services entity, in the absence of proof to the contrary, sufficient evidence that the property is vested in the water services entity.
- (4) For the purposes of this clause, the instrument need not be an instrument of transfer, but must—
- (a) be executed or purport to be executed by the water services entity; and
 - (b) relate to a property held by the local government organisation immediately before the water services entity's establishment date; and
 - (c) be accompanied by a certificate by the water services entity that the property became vested in the water services entity because of the provisions of this Act.

Compare: 2010 No 37 s 85; 2019 No 50 Schedule 1 cl 17

Transfer of specified-assets assets, liabilities, and other matters

49 Transfer of specified-assets assets, liabilities, and other matters to water services entity by Order in Council

- (1) This clause applies in relation to an ~~asset~~ asset, liability, or other matter that is used wholly or partly for the provision of water services in the service area of a water services entity (a ~~specified-asset~~ **asset, liability, or other matter**) and—
- (aaa) that is owned by a local government organisation in the service area of ~~the~~ a water services entity; or
 - (a) that is not owned by a local government organisation in the service area of ~~the~~ a water services entity; or
 - (b) whose ownership is undocumented or unknown.
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister, vest the ~~specified-asset~~ asset, liability, or other matter in the water services entity if all interested parties agree in writing to the vesting.
- (3) For the purposes of **subclause (2)**, **interested parties** means,—
- (a) for a ~~specified-asset~~ asset, liability, or other matter to which **subclause (1)(aaa) or (a)** applies, the water services entity and any party claiming a right of ownership of the ~~specified-asset~~ asset, liability, or other matter;
 - (b) for a ~~specified-asset~~ asset, liability, or other matter to which **subclause (1)(b)** applies, the local government organisation, the water services entity, and any other party claiming a right of ownership of the ~~asset~~ asset, liability, or other matter.

- (4) An order under this clause may be made before, on, or after the water services entity's establishment date.
- (5) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Financial contributions transferred to Watercare Services Limited

50 Financial contributions for water supply or wastewater services infrastructure payable to Watercare Services Limited

- (1) This clause applies to any financial contribution (or any part of a financial contribution) for water supply or wastewater services infrastructure that, before the ~~establishment date~~ Northland and Auckland Water Services Entity's establishment date, was required to be transferred by Auckland Council to Watercare Services Limited under section 59 of the Local Government (Auckland Transitional Provisions) Act 2010.
- (2) On and after the establishment date referred to in **subclause (1)**, the financial contribution must be transferred to the ~~Northern Water Services Entity~~ Northland and Auckland Water Services Entity and used by that entity in reasonable accordance with the purposes for which the money was received by Auckland Council.

Other agreements

51 Transfer of specified agreements by Order in Council

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, transfer specified agreements entered into by the department relating to a water services entity to ~~the~~ that water services entity.
- (2) An order under this clause may only be made on or before the water services entity's establishment date.
- (3) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

52 Reconfiguration of existing agreements

- (1) This clause applies to the following existing agreements entered into by a local government organisation:
 - (a) an existing agreement—
 - (i) that is specified in an allocation schedule; and
 - (ii) that partly relates to the provision of water services by the local government organisation and partly relates to the provision of other services by the organisation:

- (b) an existing agreement that the Minister is satisfied should be subject to a direction under this clause for the effective and efficient transition of water services.
- (2) The Minister may give 1 or more of the following directions to the local government organisation and the board of a water services entity in relation to the existing agreement:
- (a) a direction requiring the local government organisation and the board of the water services entity to negotiate the retention or transfer, or the sharing or splitting (as the case may be), of the existing agreement:
- (b) a direction requiring either the local government organisation or the board of the water services entity, or both, to offer to any other parties that have rights or obligations under the existing agreements (**third parties**) 1 or more replacement contracts:
- (c) dates by which things must be completed, for example,—
- (i) dates by which replacement contracts must be offered:
- (ii) dates by which choices must be made under **subclause (3) or (11)**.
- (3) A third party that has rights or obligations under an existing agreement must choose, by the water services entity's establishment date,—
- (a) to enter into any replacement contract that is offered; or
- (b) for the existing agreement to continue in accordance with a direction to be given under **subclause (6)**; or
- (c) to terminate the existing agreement.
- (4) However, if a third party chooses to terminate the existing agreement under **subclause (3)(c)** no compensation is payable in respect of the termination.
- (5) If a third party chooses to enter into any replacement contract that is offered, the existing agreement ceases to have effect to the extent that it is replaced by the replacement contract.
- (6) If a replacement contract has not been entered into by the water services entity's establishment date, the Minister may give the local government organisation and the board of the water services entity a further direction specifying—
- (a) which existing agreements the local government organisation must remain a party to; and
- (b) which existing agreements the board of the water services entity must become a party to; and
- (c) which agreements are to be split, by the local government organisation remaining a party in relation to certain provisions and the board of the water services entity replacing the local government organisation as a party in relation to other provisions; and

- (d) which agreements (if any) will be shared between local government organisations and the water services entity.
- (7) If a direction is given under **subclause (6)(a)** in respect of an existing agreement, the local government organisation and the third parties to the agreement remain subject to the agreement as if the amendment Act had not been passed enacted.
- (8) If a direction is given under **subclause (6)(b)** in respect of an existing agreement, all rights and obligations of the local government organisation under the agreement become the rights and obligations of the water services entity on the date specified in the direction.
- (9) If a direction is given under **subclause (6)(c)** in respect of an existing agreement, on the date specified in the direction the rights and obligations of the relevant local government organisation under the agreement remain with the organisation except to the extent that any of those rights and obligations are transferred to the board of the water services entity.
- (10) If a direction is given under **subclause (6)(d)** in respect of an existing agreement, all rights and obligations of the local government organisation under the agreement become the joint and several rights and obligations of the local government organisation and the relevant water services entity on the date specified in the direction.
- (11) However, a party to an existing agreement in respect of which a direction is given under **subclause (6)** (other than the local government organisation or the board of the water services entity) may choose to terminate the party's involvement in the agreement; by giving written notice to the relevant local government organisation or the board of the water services entity on or before the water services entity's establishment date.
- (12) A replacement contract entered into under **subclause (3)** or any existing agreement continued under **subclause (6)** is deemed to comply with the Act.

Compare: 2010 No 116 s 124

53 Process for giving directions under clause 52

- (1) The Minister—
- (a) may at any time advise the board of the water services entity of the Minister's intentions or expectations with regard to directions to be given under **clause 52**; and
- (b) must advise the board of the water services entity to be referred to in a direction to be given under **clause 52** at least 14 days before the direction is given; and
- (c) must consider any comments that the board of the water services entity makes to the Minister relating to the direction within 10 days after the date on which the board receives the advice under **paragraph (b)**.

- (2) A direction given under **clause 52** must be in writing.
- (3) The Minister must—
 - (a) present a copy of any direction given under **clause 52** to the House of Representatives within 12 sitting days after the direction is given to the board; and
 - (b) publish a copy of it in the *Gazette* as soon as practicable after giving the direction.
- (4) However, the Minister may withhold from disclosure under **subclause (3)** any part of a direction that the Minister considers is commercially sensitive.
- (5) If **subclause (4)** applies, the Minister must substitute a note of explanation for the parts withheld.

Compare: 2010 No 116 s 118

Payment for water services infrastructure debt

54 Payment by water services entity to territorial authority for water services infrastructure debt

- (1) A water services entity must pay a local government organisation the amount prescribed under **subclause (2A)** that is equivalent to the total debt owed by the organisation in relation to water services infrastructure that—
 - (a) is wholly or partly used in the provision of water services by the territorial authority whose district is included in the entity's service area; and
 - (b) is transferred to the water services entity under this Part.
- (2) The payment—
 - (a) may be made by instalments; but
 - (b) must be paid in full no later than the close of the day that is 5 years after the water services entity's establishment date.
- (2A) For the purposes of this clause, the Governor-General may, by Order in Council made on the recommendation of the Minister, set out a debt payment schedule that—
 - (a) prescribes the amount payable by a water services entity to each local government organisation under this clause; and
 - (b) prescribes the date (or dates) on which the amount (or amounts) must be paid.
- (2B) Before making a recommendation under **subclause (2A)**, the Minister must—
 - (a) provide the establishment chief executive and the relevant local government organisation with a copy of a draft debt payment schedule; and
 - (b) give the establishment chief executive and relevant local government organisation an opportunity to make written comments on the draft; and

- (c) consider any comments received from an establishment chief executive and have particular regard to any comments received from a local government organisation; and
 - (d) inform the establishment chief executive and relevant local government organisation in writing of the reasons for any amendments made to the draft as a result of any comments received.
- (3) This clause applies despite anything in section 171(1) or **clause 42 or 43**.
- (4) This clause is repealed on the close of the day that is 5 years after the establishment date **1 July 2031**.
- (5) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Transitional stormwater management strategies

54A Transitional stormwater management strategies

- (1) The ~~chief executive board~~ of a water services entity must prepare a transitional stormwater management strategy that the chief executive must put in place on or before ~~the~~ a water services entity's establishment date that includes (without limitation) a transitional stormwater plan that—
- (a) identifies the geographical zones (on a catchment-level basis) of the water services entity's service area that are specified in its stormwater management plan under **section 256(1)(b)**, and sets out the areas, that each stormwater network serves; and
 - (b) provides the relevant details of each stormwater network in the service area of the water services entity, including maps of each stormwater network; and
 - (c) provides the relevant details about any wastewater networks that are part of, or related to, a stormwater network; and
 - (d) specifies the water services bylaws continued under **clause 57** or water services instruments ~~that are made under **clause 58**~~ relating to stormwater networks that apply in the service area of the water services entity.
- (2) The ~~chief executive board~~ of the water services entity may amend the transitional stormwater management strategy at any time.

Relationship agreements

55 Requirement to enter into relationship agreements

- (1) A relationship agreement required by **section 199A** must be entered into not later than 3 months before ~~the~~ a water services entity's establishment date.
- (2) If the parties are unable to agree on the terms and conditions of a relationship agreement no later than 3 months before the water services entity's establishment date, the terms and conditions of the agreement are—

- (a) the terms and conditions as agreed between the parties, to the extent that they are agreed; and
 - (b) the terms and conditions (if any) determined by the Minister.
- (3) Any terms and conditions determined under **subclause (2)(b)** are binding on the parties and enforceable as if they were an agreement between the parties that was freely and voluntarily entered into.

Transition from former water services bylaws to water services instruments

56 Definitions and application

- (1) In this clause and **clauses 57 to 59**, unless the context otherwise requires,—
- corresponding water services instrument**, in relation to a former water services bylaw, means a water services instrument that replaces, or is to the same material effect as, the former water services bylaw
- former water services bylaw** or **bylaw** means a bylaw made by a local authority that relates to water services and was in force immediately before the commencement of this clause
- relevant water services entity**, in relation to a former water services bylaw, means the water services entity in whose service area the former water services bylaw previously applied
- transition period** means the period beginning on ~~the~~ a water services entity's establishment date and ending on the third anniversary of the commencement of that date
- water services instrument** means any of the following instruments that may be made by a water services entity under this Act:
- (a) a controlled drinking water catchment management plan;
 - (b) stormwater network rules;
 - (c) a trade waste plan;
 - (d) water supply or wastewater services rules;
 - (e) ~~consumer behaviour rules;~~
 - (f) ~~a service agreement;~~
 - (g) rules regulating specified classes of work;
 - (h) ~~water services infrastructure connection requirements;~~
 - (i) reporting and record-keeping rules.
- (2) This clause and **clauses 57 to 59** apply during the transition period.

57 Temporary saving of former water services bylaws

- (1) Despite anything in **Part 2** of the amendment Act, a former water services bylaw continues in force, and must be treated as if it were made by the relevant water services entity under this Act, until the earlier of the following:

- (a) the date on which a corresponding water services instrument made by the relevant water services entity takes effect;
 - (b) the end of the transition period.
- (2) ~~During the period that the former water services bylaw remains in force, the bylaw transition period,—~~
- (a) a bylaw continued by this clause may be amended by the relevant water services entity under the corresponding empowering provision (if any) in this Act or (if there is no corresponding empowering provision) as if this clause contained the relevant empowering provision; and
 - (b) may be enforced by the relevant water services entity the relevant water services entity may perform and exercise all functions, duties, or powers (including enforcement powers) in relation to the bylaw in the same way as if all references in the bylaw to the local authority were references to the relevant water services entity.
- (3) To avoid doubt, nothing in sections 158 to 160A of the Local Government Act 2002 applies to a former water services bylaw during the period that it remains in force under this clause.

58 Process for making water services instruments during transition period

- (1) When making a water services instrument under this Act during the transition period, the board of a relevant water services entity—
- (a) may—
 - (i) adopt (with or without modification) or consolidate the provisions of any 1 or more former water services bylaws; and
 - (ii) base the instrument on any template or model instrument issued by the chief executive of the department for the purpose:
 - (b) must revoke the former water services bylaw (if any) superseded by the instrument in the water services instrument:
 - (c) must otherwise comply with any procedural, engagement, or consultation requirements that apply to the making of the instrument.
- (2) ~~Despite **subclause (1)(c)**, when making water supply or wastewater services rules, the board of the relevant water services entity need not engage with or consult (as the case may be) its consumer forum or the provider of the consumer dispute resolution scheme.~~
- (2) Despite **subclause (1)(c)**, a water services entity need not comply with the procedural, engagement, or consultation requirements that would otherwise apply to the making of the water services instrument if the instrument—
- (a) adopts, with or without modification, any 1 or more former water services bylaws; and

- (b) applies to the same area and has the same material effect as the former water services bylaws.

59 Requirement to enter relationship agreement relating to transition

During the transition period, a relevant water services entity and a relevant local authority must enter into a relationship agreement under **Part 5A** setting out how the parties will work together in relation to the transition of former water services bylaws to water services instruments under this Act.

Transitional service agreements and development codes

59A Transitional service agreement

- (1) The chief executive of the department must, by notice, issue a service agreement (a **transitional service agreement**) that must be treated as if were made by a water services entity under **section 279**.
- (2) Before issuing the transitional service agreement, the chief executive of the department must consult the Commission.
- (3) A transitional service agreement remains in force until the earlier of—
- (a) the date on which a service agreement prepared by the water services entity in accordance with **sections 279 to 283** takes effect;
- (b) **1 July 2027.**

59B Transitional development code

- (1) The chief executive of the department must, by notice, issue a development code (a **transitional development code**) that must be treated as if it were prepared by a water services entity and approved by the Commission under **Part 10**.
- (2) The transitional development code—
- (a) need not contain the Part 1 matters specified in **section 294(a)**; but
- (b) must set out the Part 2 matters specified in **section 294(b)**.
- (3) Before issuing the transitional development code, the chief executive of the department must consult the Commission.
- (4) The transitional development code remains in force until the earlier of—
- (a) the date on which a development code prepared by the water services entity under **section 293** and approved by the Commission in accordance with **sections 294 to 294C and 295** takes effect;
- (b) **1 July 2027.**
- (5) A water services entity must comply with the transitional development code while it remains in force.
- (6) However, during the period that the transitional development code applies, the water services entity may replace the fees and charges set out in the code pre-

scribed under **section 294(b)(xii)** by the chief executive of the department with new fees and charges prescribed by the entity without complying with the process set out in **section 294C**.

- (7) A transitional development code issued under this clause is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

Charging matters

60 Chief executive of water services entity may adopt existing growth charges policies

- (1) Despite anything in **Part 11**, the chief executive of a water services entity may adopt as the water infrastructure contributions policy of the water services entity the relevant parts of—
- (a) the development contributions requirements and the ~~financial~~ environmental contributions requirements of the relevant territorial authority or authorities;
 - (b) the infrastructure growth charge requirements of Watercare Services Limited set out in any of its consumer contracts in effect on **30 June 2024**.
- (1A) If **subclause (1)(a)** applies, the relevant territorial authority or authorities are not liable or responsible for any outstanding refunds, legal challenges, objections, reconsiderations, or disputed charges relating to the adopted parts of the policy.
- (2) A policy adopted under **subclause (1)** expires on the earlier of the following:
- (a) a date that the chief executive specifies in the adopted policy;
 - (b) the close of ~~30 June 2027~~ **30 June 2029**.
- (3) This clause is repealed on ~~1 July 2027~~ **1 July 2029**.

61 Water services entity may adopt and use existing tariff or charging structures

- (1) Despite anything in **Part 11**, a water services entity may adopt and use the existing tariff or charging structures of the relevant territorial authority or authorities or a local government organisation.
- (2) A tariff or charging structure adopted under **subclause (1)** expires on the earlier of the following:
- (a) a date that the chief executive specifies;
 - (b) the close of ~~30 June 2027~~ **30 June 2029**.
- (3) This clause is repealed on ~~1 July 2027~~ **1 July 2029**.

- 62** **Transfer of development contribution or ~~financial~~ environmental contribution required for water services infrastructure to water services entity**
- (1) On ~~the~~ a water services entity's establishment date, a territorial authority must transfer to ~~a relevant~~ the water services entity any development contribution or ~~financial contribution~~ environmental contribution (or any part of a development contribution or ~~financial contribution~~ environmental contribution), with all relevant information (including the purpose for which the contribution was required), that the territorial authority received in respect of the development of its water services infrastructure where those infrastructure costs are yet to be incurred.
- (1A) A territorial authority must, as soon as is reasonably practicable, transfer to ~~a relevant~~ the water services entity any development contribution or ~~financial~~ environmental contribution that the territorial authority receives after the water services entity's establishment date that it has required in respect of the development of its water services infrastructure, in relation to a development where the resource or building consent or service connection application was submitted (with all required information) prior to the water services entity's establishment date.
- (1B) For the purposes of assisting a transfer under this clause, the Governor-General may, by Order in Council made on the recommendation of the Minister, set out a transfer schedule that—
- (a) prescribes the amounts of the development contributions and ~~financial~~ environmental contributions that—
- (i) a territorial authority has received or is to receive; and
- (ii) are to be transferred to the relevant water services entity;
- (b) prescribes the date (or dates) on which the development contributions and ~~financial~~ environmental contributions under **subclause (1A)** are to be transferred to the relevant water services entity, which must be no later than the close of the day that is 5 years after the water services entity's establishment date.
- (1C) Before making a recommendation under **subclause (1B)**, the Minister must—
- (a) provide the chief executives of the relevant water services entity and territorial authorities with a copy of a draft transfer schedule; and
- (b) give the chief executives a reasonable opportunity to make written comments on the draft; and
- (c) consider any comments received and make any amendments to the draft that the Minister considers appropriate; and
- (d) inform the chief executives in writing of the reasons for any amendments made to the draft as a result of any comments received.

- (2) Sections 204 and 209 of the Local Government Act 2002 apply in relation to the development contribution or ~~financial~~ environmental contribution as if—
 - (a) the contribution were paid or made to the relevant water services entity; and
 - (b) the capital expenditure of the territorial authority were the capital expenditure of the relevant water services entity.
- (3) The relevant water services entity must use any development contribution or ~~financial~~ environmental contribution transferred to it under this clause for the purposes for which the contribution was required by the territorial authority concerned.
- (4) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

64 Water services entity not eligible for certain contributions

- (1) A water services entity is not eligible to receive or use—
 - (a) development contributions collected under the Local Government Act 2002; or
 - (b) ~~financial contributions collected under the Resource Management Act 1991.~~
 - (b) environmental contributions collected under the **Natural and Built Environment Act 2022.**
- (1A2) Nothing in **subclause (1)** applies to development contributions or ~~financial~~ environmental contributions that have been transferred to the water services entity under **clause 62.**
- (2) ~~Nothing in **subclause (1)** applies to development contributions or financial contributions collected before the establishment date that are transferred to the water services entity by or under this Act.~~

65 Requirement of territorial authority to amend policy on development contributions or ~~financial~~ environmental contributions

- (1) ~~This clause applies in relation to a policy on development contributions or financial contributions adopted by a territorial authority under section 102 of the Local Government Act 2002 and a district plan prepared under the Resource Management Act 1991.~~
- (1) This clause applies in relation to—
 - (a) a policy on development contributions or environmental contributions adopted by a territorial authority under section 102 of the Local Government Act 2002; and
 - (b) a plan prepared under the **Natural and Built Environment Act 2022.**
- (2) Each policy or plan must be amended to remove any power of the territorial authority to require a development contribution or a ~~financial~~ an environmental

contribution for stormwater networks, water supply, or wastewater services infrastructure, in accordance with the following procedure:

- (a) the amendment must be made by resolution of the governing body of the territorial authority;
 - (b) the amendment is not required to be made using the process in the Local Government Act 2002 or the ~~Resource Management Act 1991~~ **Natural and Built Environment Act 2022**;
 - (c) the amendment must have effect from the water services entity's establishment date.
- (3) Nothing in this clause limits or affects the ability of a territorial authority to require a development contribution for agricultural water supply or land drainage.
- (4) Nothing in this clause prohibits a territorial authority from requiring development contributions or ~~financial~~ environmental contributions after the water services entity's establishment date for water services infrastructure under a policy in place ~~prior to 1 July 2024~~ before the water services entity's establishment date where a resource consent, building consent, or service connection application was lodged prior to ~~1 July 2024~~ that date.

Compare: 2010 No 37 s 54

Transitional collection of water services charges

65A Chief executive of water services entity may require local authorities to collect water services charges

- (1) The chief executive of a water services entity may require the local authority or authorities in its service area to collect water services charges on behalf of the water services entity.
- (2) Before relying on **subclause (1)**, the chief executive and the local authority or authorities must take all reasonable steps to enter into a water services charges collection agreement that provides the local authority or authorities with reasonable compensation for collecting water services charges on behalf of the water services entity.
- (3) If the chief executive and the local authority or authorities are unable to agree on all the terms of a water services charges collection agreement, they must refer the matter to the Minister.
- (4) The Minister must determine all outstanding terms of the water services charges collection agreement within 20 working days of the referral.

Compare: 2020 No 47 ss 54–56

65B Terms of water services charges collection agreements

- (1) The terms of a water services charges collection agreement are—
 - (a) as agreed between the parties, to the extent that they are agreed; and

- (b) otherwise, as the Minister has determined; and
 - (c) binding on the parties.
- (2) A water services charges collection agreement, if still in force, expires with the close of ~~30 June 2027~~ the third anniversary of the relevant water services entity's establishment date, unless the parties to the agreement agree to extend it.
- Compare: 2020 No 47 s 56

65C Local authorities not responsible for collecting unpaid charges

- (1) This clause applies if—
- (a) a water services charges collection agreement is in force; and
 - (b) charges to be collected under the agreement are unpaid.
- (2) The local authority responsible for the collection of the charge—
- (a) must notify the chief executive of the relevant water services entity that—
 - (i) a charge is unpaid; and
 - (ii) the local authority is not going to collect the unpaid charge; and
 - (b) is not required to collect that unpaid charge on behalf of the relevant water services entity if notification is given under **paragraph (a)**.
- (3) This clause, the cross-heading above **clause 65A**, and **clauses 65A and 65B** are repealed on ~~1 July 2027~~ **1 July 2029**.

Compare: 2020 No 47 s 57

Water services infrastructure connection applications

65D Existing water services infrastructure connection applications

- (1) This clause applies to a water services infrastructure connection application that was lodged with a territorial authority, but not determined by the territorial authority, before ~~the commencement of this clause~~ a water services entity's establishment date.
- (2) The territorial authority must assess and determine the application as if the amendment Act had not been enacted.

Transitional provisions relating to Local Government Act 2002

70 Trade waste consents

- ~~This clause applies to a trade waste consent granted under a bylaw made under section 145, 146(1)(a)(iii), or 148 of the Local Government Act 2002 (including any conditions or restrictions imposed on the consent) and in force immediately before the establishment date.~~
- (1) This clause applies to a trade waste consent—

- (a) granted under a bylaw made under section 146(1)(a)(iii) of the Local Government Act 2002 (including any conditions or restrictions imposed on the consent); and
 - (b) that is in force in the service area of a water services entity immediately before the water services entity's establishment date.
- (2) ~~On and after the establishment date, the~~ The trade waste consent (and any conditions or restrictions imposed on it) continues in force on and after the water services entity's establishment date as if it were a trade waste permit issued by the water services entity under **section 267** until the earlier of the following:
- (a) the close of ~~30 June 2029~~ the fifth anniversary of the water services entity's establishment date;
 - (b) the date on which it is replaced under **section 267**.

71 Enforcement officers

- (1) This clause applies to a person—
- (a) ~~who, immediately before the a water services entity's establishment date,~~ who, immediately before the a water services entity's establishment date, held office as an enforcement officer appointed under section 177 of the Local Government Act 2002; and
 - (b) ~~who, on and from the a the water services entity,~~ who, on and from the water services entity's establishment date, becomes an employee of a the water services entity.
- (2) ~~On and after the establishment date, the person must be treated as if they had been appointed as a compliance officer under **section 357**.~~

72 Offences under former provisions of Local Government Act 2002

- (1) ~~This clause applies to an offence committed in the service area of a water services entity before the establishment date against a provision of the Local Government Act 2002 (a former provision) repealed by **subpart 12 of Part 2** of the amendment Act.~~
- (2) ~~The former provision continues to have effect as if the amendments set out in **subpart 12 of Part 2** of the amendment Act not been enacted for the purposes of—~~
- (a) ~~investigating the offence to which this clause applies;~~
 - (b) ~~commencing or completing proceedings for the offence to which this clause applies;~~
 - (c) ~~imposing a penalty or other remedy, or making an order, in relation to an offence to which this clause applies.~~

Transitional provisions relating to Resource Management Act 1991 **Natural and Built Environment Act 2022**

73 Applications for resource consent

- (1) This clause applies to an application for a resource consent under ~~section 88 of the Resource Management Act 1991~~ **the Natural and Built Environment Act 2022** made by a territorial authority in relation to water services before ~~the~~ a water services entity's establishment date.
- (2) The application continues in effect on and after the water services entity's establishment date as if it were made by the water services entity whose service area includes the district of that territorial authority.

74 Representation at proceedings

- (1) This clause applies to any proceedings before the Environment Court relating to water services that were lodged before ~~the~~ a water services entity's establishment date but not completed by the close of the day before that date.
- (2) For the purposes of ~~section 274(1) of the Resource Management Act 1991~~ **clause 53 of Schedule 13 of the Natural and Built Environment Act 2022**, the water services entity whose service area includes the district of a territorial authority that is a party to those proceedings is to be treated as a party in place of that territorial authority.

75 ~~Local authority~~ Local government organisation designations relating to water services

- (1) This clause applies to a designation of a ~~local authority~~ local government organisation that wholly relates to the provision of water services and for which a water services entity has assumed financial responsibility by operation of this Part or an Order in Council made under this Part.
- (2) ~~On and after the establishment date, the designation is deemed to have been transferred to the water services entity for the purposes of section 180(2) and clause 76 of Schedule 1 of the Resource Management Act 1991.~~
- (2) On and after the water services entity's establishment date, the designation is deemed to have been transferred to the water services entity for the purposes of **section 526 and Schedule 7 of the Natural and Built Environment Act 2022.**
- (3) In this clause, **designation** has the same meaning as in ~~section 166 of the Resource Management Act 1991~~ **section 7(1) of the Natural and Built Environment Act 2022.**

*Pre-commencement engagement and consultation***76 Pre-commencement engagement and consultation**

Engagement and consultation carried out at any time before ~~the~~ a water services entity's establishment date about a matter requiring engagement or consultation under ~~the~~ this Act (as amended by the amendment Act) is to be treated as engagement or consultation by the water services entity for the purposes of ~~the~~ this Act.

Compare: 2014 No 32 s 423

*Treaty settlement obligations***77 Treaty settlement obligations**

- (1) This clause applies to a person who performs or exercises a function, duty, or power under this Part.
- (2) The person must, in performing or exercising the function, duty, or power, uphold the integrity, intent, and effect of Treaty settlement obligations.
- (3) This clause does not affect or limit how section 9 (Treaty settlement obligations prevail) applies to this Part.

77A Process for upholding Treaty settlement obligations

- (1) This clause applies in respect of any Treaty settlement obligations that are, or may be, directly affected by this Act, the Taumata Arowai—the Water Services Regulator Act 2020, or the Water Services Act 2021.
- (2) The Crown must uphold the integrity, intent, and effect of Treaty settlement obligations in accordance with this clause.
- (3) The Crown must, unless otherwise agreed with the post-settlement governance entity for the Treaty settlement,—
 - (a) discuss with the post-settlement governance entity, for the purpose of agreeing, how the integrity, intent, and effect of the Treaty settlement obligations will be upheld in relation to this Act, the Taumata Arowai—the Water Services Regulator Act 2020, or the Water Services Act 2021; and
 - (b) support the capacity of the post-settlement governance entity to participate effectively in those discussions, including by providing appropriate resources; and
 - (c) enter into any agreements with the post-settlement governance entity that are necessary to uphold the Treaty settlement obligations, including by entering into a deed to amend the entity's Treaty settlement deed.
- (4) If necessary to give effect to an agreement relating to Treaty settlement obligations, the Crown must—

- (a) take all necessary steps within the Crown's authority to introduce a Bill to the House of Representatives that—
 - (i) amends the post-settlement governance entity's Treaty settlement Act or any other Act; and
 - (ii) is in a form that has been agreed by the post-settlement governance entity; and
 - (b) use the Crown's best endeavours to promote the enactment of the Bill no later than 18 months after the commencement of this clause.
- (5) The Crown must also—
- (a) monitor progress of the matters set out in **subclauses (2) and (3)**; and
 - (b) every 3 months, make a report on the progress available to the post-settlement governance entity.
- (6) In this clause,—
- claimant group** has the meaning given in **section 6(1)**
- post-settlement governance entity**—
- (a) means a body corporate or the trustees of a trust established by a claimant group for the purposes of receiving redress or participating in arrangements established under a Treaty settlement Act; and
 - (b) includes an entity established to represent a collective or combination of claimant groups.

Agreements, etc, with mana whenua

78 Water services entities to be responsible for agreements, etc, with mana whenua

- (1) On and after ~~the~~ a relevant water services entity's establishment date, ~~a relevant~~ the water services entity is to be treated as being responsible for performing or exercising any functions, duties, or powers relating to water services that are set out in any agreement, arrangement, or understanding between a local authority and mana whenua that was entered into before that date, either—
- (a) in place of the local authority; or
 - (b) as a party to the agreement, arrangement, or understanding in addition to the local authority.
- (2) By, or as soon as practicable after, ~~the~~ a relevant water services entity's establishment date, ~~an~~ the establishment chief executive must—
- (a) identify the agreements, arrangements, and understandings between local authorities and mana whenua relating to water services that are not to be subject to the process in **clause 77A**; and
 - (b) work together with the relevant local authority; and mana whenua to prepare for the assumption by ~~the~~ that water services entity of any responsi-

bility set out in the agreements, arrangements, and understandings under **subclause (1)**.

- (3) In this clause, **relevant water services entity** means the water services entity in whose district the agreement, arrangement, or understanding applied immediately before the water services entity's establishment date.

Transitional regulations

79 Transitional regulations relating to tariff or charging structures

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing transitional or savings provisions for 1 or more of the following purposes:

- (a) maintaining the methodology or methodologies to be used to determine the tariff or charging structures that are to apply to residential consumers for the water services that water services entities provide and growth in demand for those water services (for example, per property, per unit of capital value, or per volume of water consumed or discharged);
- (b) determining the rate of change in the amounts that residential consumers are charged for water services;
- (c) determining the overall level of revenue that a water services entity may receive from a particular residential service or residential consumer group.

- (1A) Regulations made under this clause may apply to 1 or more water services entities.

- (2) The Minister may not recommend the making of regulations unless the Minister has—

- (a) provided the Commission with a copy of the proposed regulations; and
- (b) sought feedback from the Commission on the proposed regulations; and
- (c) considered the feedback (if any) that the Commission has given.

- (3) In this clause,—

residential consumer—

- (a) means a person who owns residential land; and
- (b) includes a person who leases residential land under a lease that requires the person to pay charges to a water services entity that the owner of the property would otherwise pay

residential land has the same meaning as in section YA 1 of the Income Tax Act 2007.

- (4) Regulations made under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) Regulations made under this clause expire on the close of ~~30 June 2027~~30 June 2029.

(6) This clause is repealed on ~~1 July 2027~~1 July 2029.

80 Other transitional regulations

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing transitional or savings provisions for 1 or more of the following purposes:

- (a) prescribing matters in respect of the establishment of a water services entity which may be in addition to, or in place of, the provisions of this Act;
- (b) providing for transitional reporting obligations to apply to local government organisations or water services entities;
- (c) extending the time for completing an action, a step, or a procedure that is required by or under this Act and that is not done or cannot be done by the time required;
- (d) making provision for a situation for which no or insufficient provision is made by or under this Act.

(2) The Minister must not recommend the making of regulations unless the Minister is satisfied that to do so is necessary for the effective and efficient transition of water services from local authorities to water services entities.

(3) Regulations made under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(4) Regulations made under this clause expire ~~on the establishment date~~ the close of 30 June 2026.

(5) This clause is repealed on ~~the close of the day immediately before the establishment date~~ 1 July 2026.

Schedule 2

Schedule 5 of Water Services Entities Act 2022 replaced

s 25

Schedule 5

Subsidiaries

s 18(3)

1 Application

This schedule applies to—

- (a) a water services entity that establishes, owns, or operates a subsidiary or jointly establishes, owns, or operates a subsidiary;
- (b) a subsidiary that a water services entity has, or water services entities have, established, own, or operate.

2 Water services entity may establish, own, or operate subsidiaries under certain conditions

A water services entity may establish, own, or operate a subsidiary if that subsidiary—

- (a) complies with the requirements of this schedule; and
- (b) carries out 1 or more of the functions that are incidental and related to, or consequential on, the functions of a water services entity set out in **section 13(a)**.

3 Subsidiaries must have constitutions

- (1) Each subsidiary of a water services entity must have a constitution that is not inconsistent with—
 - (a) the constitution of the water services entity; or
 - (b) the water services entity's functions, duties, and powers under this Act.
- (2) **Subclause (1)(a)** does not apply to a company that is defined as a subsidiary under **paragraph (b)** of the definition of subsidiary in **section 6(1)**.
- (3) The constitution of a subsidiary must, to the extent relevant to its activities, include the objectives set out in section 12 and the operating principles set in section 14.

4 Appointment of directors

- (1) A water services entity must adopt a policy that sets out an objective and transparent process for—
 - (a) the identification and consideration of the skills, knowledge, and experience required of directors of a subsidiary; and

- (b) the appointment of directors to a subsidiary; and
 - (c) the remuneration of directors of a subsidiary.
- (2) A water services entity may appoint a person to be a director of a subsidiary only if the person has, in the opinion of the water services entity, the skills, knowledge, or experience to—
- (a) guide the subsidiary, given the nature and scope of its activities; and
 - (b) contribute to the achievement of the objectives of the subsidiary.
- (3) When identifying the skills, knowledge, and experience required of directors of a subsidiary, the water services entity must consider whether knowledge of tikanga Māori may be relevant to the governance of that subsidiary.
- (4) In the case of company that is defined as a subsidiary under **paragraph (b)** of the definition of subsidiary in **section 6(1)**, the obligations in this clause apply jointly to each water services entity.

Compare: 2002 No 84 s 57

5 Role of directors of subsidiaries

- (1) The role of a director of a subsidiary is to assist the subsidiary to meet its objectives and any other requirements in its statement of intent.
- (2) This clause does not limit or affect the other duties that a director of a subsidiary has.

Compare: 2002 No 84 s 58

6 Objectives of subsidiaries

- (1) The main objectives of a subsidiary are to—
- (a) achieve the objectives of its shareholders, both commercial and non-commercial, as specified in its statement of intent and its constitution; and
 - (b) be a good employer; and
 - (c) deliver services in an efficient and financially sustainable manner; and
 - (d) if the subsidiary is a trading organisation, conduct its affairs in accordance with sound business practice.
- (2) In this clause, **good employer** has the same meaning as in section 122(2).

Compare: 2002 No 84 s 59

7 Decisions relating to operation of subsidiaries

All decisions relating to the operation of a subsidiary must be made by, or under the authority of, the board of the subsidiary in accordance with—

- (a) its statement of intent; and
- (b) its constitution.

Compare: 2002 No 84 s 60

8 Obligations of subsidiaries

- (1) A subsidiary must, when performing or exercising its duties, functions, or powers under this Act, give effect to Treaty settlement obligations to the extent that the obligations—
 - (a) apply to the performance or exercise of the duties, functions, and powers of a water services entity that owns shares in the subsidiary; and
 - (b) are relevant to the purpose and objectives of the subsidiary as specified in its constitution and statement of intent.
- (2) A subsidiary must, when performing a function of a water services entity that requires engagement under **section 461**, comply with the engagement requirements set out in **sections 461 and 462**.

9 Activities undertaken on behalf of water services entity

A subsidiary may undertake any activities on behalf of a water services entity apart from those activities specified in sections 118 and 119.

10 Prohibition on guarantees, etc

- (1) A water services entity may not give any guarantee, indemnity, or security in respect of the performance of any obligation by a subsidiary.
- (2) However, a water services entity may give a guarantee, an indemnity, or a security in respect of the performance of any obligation of a company that is defined as subsidiary under **paragraph (b)** of the definition of subsidiary in **section 6(1)** if the company has been established for the purpose of—
 - (a) undertaking borrowing for the shareholding water services entities; or
 - (b) managing for the shareholding water services entities financial and other risks that could give rise to contingent or uncertain losses.
- (3) An indemnity, guarantee, or a security referred to in **subclause (2)** may only be given in respect of a matter specified in that subclause.

Compare: 2002 No 84 s 62

11 Restriction on lending

A water services entity may not lend money, or provide any other financial accommodation, to a subsidiary on terms and conditions that are more favourable to the subsidiary than those that would apply if the water services entity were (without charging any rate or rate revenue as security) borrowing the money or obtaining the financial accommodation.

Compare: 2002 No 84 s 63

12 Statements of intent

- (1) Every subsidiary must prepare and adopt a statement of intent in accordance with ~~Part 1 of Schedule 8 of the Local Government Act 2002 sections 147 to 150 and Part 1 of Schedule 3.~~

- (2) The purpose of a statement of intent is to—
- (a) state publicly the activities and intentions of the subsidiary for the year and the objectives to which those activities will contribute; and
 - (b) provide an opportunity for shareholders to influence the direction of the subsidiary; and
 - (c) provide a basis for the accountability of the directors to their shareholders for the performance of the subsidiary.
- (3) The statement of intent must not be inconsistent with the constitution of the subsidiary.
- (4) All information that is included in a statement of intent under this clause must be prepared in accordance with generally accepted accounting practice if that information is of a form or nature for which generally accepted accounting practice has developed standards.
- (5) Despite this clause, an organisation that becomes a subsidiary not more than 6 months before the end of a financial year is not required to prepare a statement of intent for that financial year.
- (6) Each shareholding water services entity must publish the adopted statement of intent on an Internet site maintained by, or on behalf of, the water services entity within 1 month of its adoption, and must maintain the statement of intent on the Internet site for a period of not less than 7 years.
- (7) A failure by a subsidiary to comply with any requirement of this clause, or with any statement in the subsidiary's statement of intent, does not affect the validity or enforceability of any deed, agreement, right, or obligation entered into, obtained, or incurred by the subsidiary.
- (8) ~~For the purposes of this clause, in Part 1 of Schedule 8 of the Local Government Act 2002,—~~
- ~~(a) references to a local authority must be read as references to a water services entity; and~~
 - ~~(b) references to a council-controlled organisation must be read as references to a subsidiary of a water services entity.~~

Compare: 2002 No 84 s 64

13 Contents of statement of intent

The statement of intent for a subsidiary must include—

- (a) the objectives of the subsidiary (or the group if the subsidiary has a related party as defined in section 291A of the Companies Act 1993);
- (b) a statement by the subsidiary's board indicating the board's approach to governance;
- (c) the nature and scope of the activities that the subsidiary is to deliver:

- (d) the non-financial performance targets and other performance measures by which to assess whether the objectives of the subsidiary are being or have been met:
- (e) the main accounting policies of the subsidiary:
- (f) if the subsidiary is a trading subsidiary,—
 - (i) the ratio of consolidated shareholders' funds to total assets and the definitions of those terms:
 - (ii) an estimate of the amount or proportion of accumulated profits and capital reserves that is intended to be distributed to the shareholders:
 - (iii) the board's estimate of the commercial value of the shareholders' investment in the group and the manner in which, and the times at which, that value is to be reassessed:
- (g) if the subsidiary is not a trading subsidiary, forecast financial statements for the next 3 years:
- (h) if water services are provided (other than under a contract or similar arrangement), the performance measures and targets for each of the water services provided.

Compare: 2002 No 84 Schedule 8 Parts 2–4

14 Consultation regarding statement of intent

Before adopting a statement of intent, the board of a subsidiary must—

- (a) provide a draft of the statement of intent to its shareholders; and
- (b) have regard to any feedback received from its shareholders.

15 Shareholders may require additional plans

- (1) The shareholders of a subsidiary may require the subsidiary to prepare and deliver additional plans, including—
 - (a) an asset management plan:
 - (b) a plan setting out the subsidiary's long-term objectives and priorities:
 - (c) 1 or more thematic plans (for example, a climate change mitigation plan).
- (2) A requirement to provide a plan must be notified to the subsidiary in writing and must specify—
 - (a) the date by which the plan must be delivered to the shareholders; and
 - (b) the matters to be addressed in the plan; and
 - (c) the time period that the plan is to cover.
- (3) A requirement to provide a plan may also specify a date or dates by which, or intervals at which, the subsidiary must report on its progress against the plan.

- (4) The board of a subsidiary must deliver plans, and reports against those plans, in accordance with the terms of the requirement.

Compare: 2002 No 84 s 64A

16 Statement of expectations

- (1) The shareholders in a subsidiary may prepare a statement of expectations that—
- (a) specifies how the organisation is to conduct its relationships with stakeholders, including iwi, hapū, and other Māori organisations; and
 - (b) requires the subsidiary to act in a manner that is consistent with—
 - (i) the statutory obligations of the shareholders:
 - (ii) the shareholders' obligations pursuant to agreements with third parties (including with iwi, hapū, or other Māori organisations).
- (2) A statement of expectations may include other shareholder expectations (for example, expectations in relation to community engagement and collaboration with shareholders and others in the delivery of services).
- (3) A statement of expectations must be published on an Internet site maintained by, or on behalf of, each water services entity that is a shareholder of the organisation.

Compare: 2002 No 84 s 64B

17 Performance monitoring

- (1) A water services entity that is a shareholder in a subsidiary must regularly undertake performance monitoring of the subsidiary to evaluate its contribution to the achievement of—
- (a) the water services entity's objectives for the subsidiary; and
 - (b) (if applicable) the desired results, as set out in the subsidiary's statement of intent; and
 - (c) the overall aims and outcomes of the water services entity.
- (2) A water services entity must, as soon as practicable after a statement of intent of a subsidiary is delivered to it,—
- (a) agree to the statement of intent; or
 - (b) if it does not agree, take all practicable steps under clause 6 of Schedule 8 of the Local Government Act 2002 to require the statement of intent to be modified.
- (3) In the case of a company that is defined as a subsidiary under **paragraph (b)** of the definition of subsidiary in **section 6(1)**, the obligations in this clause apply jointly to each water services entity.

- (4) For the purposes of this clause, in clause 6 of Schedule 8 of the Local Government Act 2002, references to a **council-controlled organisation** must be read as references to a subsidiary of a water services entity.

Compare: 2002 No 84 s 65

18 Half-yearly or quarterly reports

- (1) During each financial year, the board of a subsidiary must report on the subsidiary's operations—
- (a) to its shareholders; and
 - (b) in the case of a subsidiary that is indirectly controlled by 1 or more water services entities (for example, a subsidiary of a holding company owned by a water services entity), to each water services entity that indirectly controls the subsidiary.
- (2) A half-yearly report must be delivered within 2 months after the end of the first half of each financial year.
- (3) If the shareholders of the subsidiary notify the subsidiary that they require quarterly reporting, quarterly reports must also be delivered within 2 months after the end of the first and third quarters of each financial year.
- (4) Each report must include the information required to be included by the subsidiary's statement of intent.
- (5) Each water services entity that receives a report under this clause must publish the report on an Internet site maintained by, or on behalf of, the water services entity within 1 month of receiving it and must maintain the report on that site for a period of no less than 7 years.

Compare: 2002 No 84 s 66

19 Annual report

- (1) Within 3 months after the end of each financial year, the board of a subsidiary must—
- (a) complete a report on the subsidiary's operations during that year; and
 - (b) deliver the report to its shareholders and, in the case of a subsidiary that is indirectly controlled by 1 or more water services entities (for example, a subsidiary of a holding company owned by a water services entity), to each water services entity that indirectly controls the subsidiary; and
 - (c) make the report available to the public.
- (2) The report must include the information required to be included by—
- (a) **clauses 20 and 21**; and
 - (b) its statement of intent.
- (3) If a subsidiary has undertaken to obtain or has obtained compensation from its shareholders in respect of any activity, the undertaking or the amount of compensation obtained must be recorded in the annual report of the subsidiary.

- (4) Each water services entity that receives an annual report under this clause must publish the annual report on an Internet site maintained by, or on behalf of, the water services entity within 1 month of receiving it, and must maintain the report on that site for a period of not less than 7 years.

Compare: 2002 No 84 s 67

20 Contents of annual report

- (1) An annual report on the operations of a subsidiary under **clause 19** must—
- (a) contain the information that is necessary to enable an informed assessment of the operations of that subsidiary and its subsidiaries, including—
 - (i) a comparison of the performance of the subsidiary and its subsidiaries with the statement of intent; and
 - (ii) an explanation of any material variances between that performance and the statement of intent; and
 - (b) state the dividend, if any, authorised to be paid or the maximum dividend proposed to be paid by that organisation for its equity securities (other than fixed interest securities) for the financial year to which the report relates.
- (2) In addition, the report may include any information required by a water services entity to enable the entity to meet its statutory obligations under the Water Services Act 2021.

Compare: 2002 No 84 s 68

21 Financial statements and auditor's report

- (1) A report on the operations of a subsidiary under **clause 19** must include—
- (a) audited consolidated financial statements for that financial year for the subsidiary and its subsidiaries; and
 - (b) an auditor's report on—
 - (i) those financial statements; and
 - (ii) the performance targets and other measures by which to assess whether the objectives of the subsidiary are being or have been met.
- (2) The audited financial statements under **subclause (1)(a)** must be prepared in accordance with generally accepted accounting practice.

Compare: 2002 No 84 s 69

22 Auditor-General is auditor of subsidiaries

Despite sections 207P to 207V of the Companies Act 1993, a subsidiary or a subsidiary of a subsidiary is a public entity as defined in section 4 of the Public

Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

Compare: 2002 No 84 s 70

23 Protection from disclosure of sensitive information

Nothing in this Act requires the inclusion in any statement of intent, annual report, financial statement, half-yearly report, or quarterly report required to be produced under this Act by a subsidiary of any information that may be properly withheld if a request for that information were made under the Local Government Official Information and Meetings Act 1987.

Compare: 2002 No 84 s 71

24 Listed subsidiaries

(1) This clause applies to a subsidiary if the shares of any of the following are quoted on a licensed market (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013):

- (a) the subsidiary;
- (b) a holding company of the subsidiary;
- (c) controlling companies of the subsidiary.

(2) If **subclause (1)** applies, the subsidiary is not required to—

- (a) have a statement of intent under **clause 12**;
- (b) deliver a half-yearly report or quarterly report under **clause 18**;
- (c) deliver an annual report under **clause 19**.

(3) In this clause,—

controlling companies means 2 or more companies whose degree of control over a subsidiary, if exercisable by a notional company, would make the notional company a holding company of the subsidiary

holding company has the same meaning as in section 5(2) of the Companies Act 1993.

Compare: 2002 No 84 s 71A

25 Official information

(1) Parts 1 to 6 of the Local Government Official Information and Meetings Act 1987 apply to a subsidiary as if the subsidiary were a local authority.

(2) The Ombudsmen Act 1975 applies to a subsidiary as if the subsidiary were listed in Part 3 of Schedule 1 of that Act.

(3) The Public Records Act 2005 applies to a subsidiary as if the subsidiary were a water services entity.

Compare: 2002 No 84 s 74

26 Related companies

The provisions in this schedule apply to a company as if it were a subsidiary of a water services entity or water services entities if the company—

- (a) is a related company (within the meaning of section 2(3) and (4) of the Companies Act 1993) of a subsidiary; or
- (b) is defined as a subsidiary under **paragraph (b)** of the definition of subsidiary in **section 6(1)**.

Compare: 2002 No 84 s 72

27 Relationship with other enactments

- (1) The provisions in this schedule are in addition to the provisions in any other enactments that apply to subsidiaries.
- (2) However, if a conflict arises between a provision in this schedule and a provision in another enactment, the provision in this schedule prevails.

Schedule 6

Transfer of small mixed-use rural water supplies to alternative operators

s-6 s 475B

Eligibility to transfer

1 Eligibility for transfer of small mixed-use rural water supply

A small mixed-use rural water supply may be transferred to an alternative operator under this schedule only if—

- (a) the supply meets the criteria of a small mixed-use rural water supply (as defined in **section 6(1)**); and
- (b) the transfer of the supply does not breach any Treaty settlement obligations.

Requirement to transfer

2 When requirement to transfer applies

- (1) A water services entity must transfer all the assets and liabilities of, and interests relating to, a small mixed-use rural water supply owned by the entity to an alternative operator if—
 - (a) the water services entity has received from the alternative operator—
 - (i) a proposal to transfer the supply to the operator (a **transfer proposal**); and
 - (ii) a business plan prepared by the operator relating to the transfer proposal; and
 - (b) the water services entity has determined through engagement with mana whenua in the area of the supply that the transfer proposal does not breach any Treaty settlement obligations; and
 - (c) an assessment by a panel of experts appointed under **clause 4** concludes that the proposed transfer is viable; and
 - (d) the transfer proposal is supported, in a binding referendum conducted under section 9 of the Local Electoral Act 2001 using the First Past the Post electoral system, by 75% or more of the votes cast in accordance with **clause 9**.
- (2) All the costs associated with a transfer of the assets and liabilities of, and interests relating to, a small mixed-use rural water supply under this clause must be shared equally between the water services entity and the alternative operator.

Compare: 2002 No 84 s 131

Preparation and assessment of transfer proposal

3 Obligations relating to transfer proposal

- (1) A transfer proposal prepared by an alternative operator must—
- (a) include information that demonstrates that the supply in respect of which the proposal is made meets the criteria of a small mixed-use rural water supply (as defined in **section 6(1)**); and
 - (b) confirm that the proposed transfer does not breach any Treaty settlement obligations; and
 - (c) confirm that the alternative operator has consulted, and had regard to the views of, Taumata Arowai on the transfer proposal; and
 - (d) confirm that the alternative operator has complied with **subclause (2)(a)**; and
 - (e) confirm that the alternative operator is able to meet the costs specified in **subclause (2)(b)**.
- ~~(2) An alternative operator who makes a transfer proposal under **clause 2(1)(a)** must—~~
- ~~(a) make publicly available a summary of the transfer proposal that contains sufficient information to enable a reasonable person to understand the material aspects of the proposal; and~~
 - ~~(b) pay all the costs associated with an independent assessment of the proposal under **clause 4**.~~
- (2) An alternative operator who makes a transfer proposal under **clause 2(1)(a)** must make publicly available a summary of the transfer proposal that contains sufficient information to enable a reasonable person to understand the material aspects of the proposal.

4 Assessment of whether proposal breaches Treaty settlement obligations

- (1) This clause applies if a water services entity receives a transfer proposal from an alternative operator under **clause 2(1)(a)**.
- (2) The water services entity must, through engagement with mana whenua in the area of the supply, assess and determine whether the transfer proposal breaches any Treaty settlement obligations.
- (3) If, following engagement under **subclause (2)**, the water services entity determines the transfer proposal breaches a Treaty settlement obligation, it must inform the alternative operator that the proposal cannot proceed to independent assessment.

5 Independent assessment of transfer proposal

- (1) This clause applies if, following engagement with mana whenua, a water services entity determines under **clause 4(2)** that a transfer proposal does not breach any Treaty settlement obligations.
- (2) The water services entity and the alternative operator must jointly appoint a panel of experts (a **panel**) to assess the viability of the proposed transfer of the assets and liabilities of, and interests relating to, the supply to the alternative operator.
- (3) In appointing the panel, the water services entity and the alternative operator must ensure that the panel has, collectively from its members, sufficient skills and experience to assess all of the components of the business plan prepared by the alternative operator to support the transfer proposal.
- (4) The panel may determine its own procedure in assessing the transfer proposal, including (without limitation) holding hearings and inviting submissions, as it thinks fit.

6 Alternative operator must prepare business plan

- (1) The alternative operator must prepare a business plan relating to its transfer proposal.
- (2) The business plan must—
 - (a) provide information about the long-term governance arrangements of the alternative operator; and
 - (b) identify the assets and liabilities of, and interests relating to, the supply that will transfer to the alternative operator if the transfer proposal is supported in a referendum conducted on the proposal; and
 - (c) include any comments received from Taumata Arowai relating to the transfer proposal; and
 - (d) be accompanied by each of the following in relation to the small mixed-use rural water supply:
 - (i) an asset management plan that complies with **subclause (3)**;
 - (ii) a funding and pricing plan that complies with **subclause (4)**;
 - (iii) a drinking water safety plan prepared by the alternative operator as if the operator were the owner of the supply; and
 - (e) include any other information that sets out how the alternative operator will comply with all applicable regulatory requirements under the Water Services Act 2021; and
 - (f) include any other relevant information relating to the supply.
- (3) An asset management plan referred to in **subclause (2)(d)(i)** must—
 - (a) cover a period of not less than 10 consecutive financial years; and
 - (b) set out—

- (i) investment priorities for the infrastructure assets of the supply; and
 - (ii) how the alternative operator will—
 - (A) operate, maintain, and renew the infrastructure assets of the supply; and
 - (B) provide new infrastructure assets for the supply.
- (4) The funding and pricing plan referred to in **subclause (2)(d)(ii)** must—
- (a) cover a period of not less than 10 consecutive financial years; and
 - (b) set out—
 - (i) the sources of, and the alternative operator’s intended approach to, funding, revenue, and pricing; and
 - (ii) the alternative operator’s intended approach to pricing its services and charging consumers; and
 - (iii) a financial strategy in respect of all of the financial years covered by the plan that includes a statement of the factors that are expected to have a significant impact on the alternative operator during those financial years, including—
 - (A) the expected changes in population and the use of land in the service area, and the capital and operating costs of providing for those changes; and
 - (B) the expected capital expenditure on network infrastructure that is required to maintain current levels of service; and
 - (C) other significant factors affecting the alternative operator’s ability to maintain current levels of service and to meet additional demands for services.
- (5) For the purposes of this clause, the water services entity must provide the alternative operator with relevant information held by the entity, and reasonably requested by the operator, relating to the supply.
- (6) The business plan must not contain any information that may be reasonably regarded as confidential or commercially sensitive.

7 Assessment by panel

- (1) The panel must assess the transfer proposal and decide whether the proposed transfer of the assets and liabilities of, and interests relating to, the small mixed-use rural water supply to the alternative operator is viable.
- (2) In making a decision, the panel must take into account—
 - (a) whether the alternative operator has sustainable governance arrangements; and
 - (b) whether the alternative operator is likely to have long-term consent to take the water; and

- (c) whether the alternative operator is sufficiently trained to support the ongoing operations and maintenance of the supply; and
 - (d) whether the alternative operator will be able to keep the supply in operation, including by assessing the operator's proposed asset management plan; and
 - (e) whether the alternative operator will be able to fund the total costs of running the supply over the long term; and
 - (f) whether the alternative operator will be able to provide a service that is cost-effective for consumers generally, including by reference to the operator's proposed funding and pricing plan; and
 - (g) whether the alternative operator will ensure that the drinking water is safe and meets drinking water standards on an ongoing basis, including by assessing the operator's proposed drinking water safety plan; and
 - (h) whether the alternative operator will be able to comply with all applicable regulatory requirements.
- (3) The panel may take any steps it considers necessary to confirm the accuracy or reliability of the information set out in the business plan.

8 Decision on transfer proposal

- (1) The panel must issue a written decision on the viability of the transfer proposal and provide a copy of its decision to the water services entity and alternative operator.
- (2) If the panel unanimously agrees that the proposed transfer is viable, the transfer proposal may proceed to a referendum under **clause 9**.

Referendum

9 Referendum on transfer proposal

- (1) If a panel of experts decides under **clause 8** that the proposed transfer of the small mixed-use rural water supply is viable, the relevant territorial authority must appoint an electoral officer to conduct a referendum on the transfer proposal.
- (2) The electoral officer who is responsible for conducting the referendum must prepare a special roll of the persons eligible under **clause 10** to vote in the referendum.
- (3) The Local Electoral Act 2001 applies, with any necessary modifications, to a referendum on the transfer proposal.
- (4) In this clause, **relevant territorial authority** means the territorial authority in whose district the majority of persons eligible to vote in the referendum are on the roll of electors of that territorial authority.

Compare: 2002 No 84 s 133

10 Eligibility to vote in referendum

A person is **eligible to vote** in a referendum on a transfer proposal if the person—

- (a) is qualified as a residential elector under section 23 of the Local Electoral Act 2001 or a ratepayer elector under section 24 of that Act; and
- (b) is a consumer of water services from the small mixed-use rural water supply.

Compare: 2002 No 84 s 132

11 Referendum documentation

A referendum petition for a referendum on a transfer proposal must—

- (a) specify the question that the water services entity proposes be put to the voters in the referendum; and
- (b) be accompanied by documentation that—
 - (i) provides a summary of the transfer proposal that contains sufficient information to enable a reasonable person to understand the material aspects of the transfer proposal; and
 - (ii) states where a copy of the transfer proposal may be accessed; and
 - (iii) states that the costs associated with the conduct of the referendum are to be met by the alternative operator; and
 - (iv) states that, if the referendum is successful,—
 - (A) the ownership of the small mixed-use rural water supply, and all assets and liabilities of, and interests relating to, the supply will transfer to the alternative operator; and
 - (B) the operation of the small mixed-use rural water supply (including the obligation to supply drinking water) will transfer to the alternative operator and the water services entity will no longer be required to supply drinking water to the consumers who access water services from the supply.

12 Costs of referendum

- (1) All the costs of conducting a referendum on a transfer proposal must be paid by the water services entity.
- (2) However, if the referendum is successful, the water services entity may recover 50% of the costs from the alternative operator as a debt due to the water services entity.

Repeal

13 Repeal of this schedule

This schedule is repealed on **1 July 2034** **1 July 2036**.

Schedule 3
New Part 7 inserted into Schedule 1AA of Local Government Act
2002

s 111(2)

Part 7

Provision relating to Water Services Legislation Act 2022

28 Transitional provision relating to certain annual reports required under Part 3 of Schedule 10

- (1) This clause applies to an annual report for the 2023/2024 financial year prepared in accordance with Part 3 of Schedule 10, and adopted in accordance with section 98.
- (2) A local authority must prepare and adopt the annual report in accordance with Schedule 10 as it read immediately before the commencement of this clause, and include the information on groups of activities required by clause 23 of Schedule 10 in relation to the following:
 - (a) water supply;
 - (b) sewerage and the treatment and disposal of sewage;
 - (c) stormwater drainage.

Schedule 4 Amendments to secondary legislation

s 202

Local Government (Financial Reporting and Prudence) Regulations 2014 (LI 2014/76)

In regulation 3, replace the definition of **network services** with:

network services means infrastructure related to—

- (aaa) ~~agricultural water supply:~~
- (aab) ~~land drainage:~~
- (a) flood protection and control works:
- (b) the provision of roads and footpaths

Revoke regulation 5(5).

Replace regulation 6(2) with:

- (2) The notes to a local authority's financial statements must disclose the financial information listed in subclause (3) in relation to the following assets:
 - (aaa) ~~agricultural water supply:~~
 - (aab) ~~land drainage:~~
 - (a) flood protection and control works:
 - (b) roads and footpaths ~~(including transport stormwater systems).~~

National Civil Defence Emergency Management Plan Order 2015 (LI 2015/140)

In the Schedule, clause 2(1), insert in its appropriate alphabetical order:

water services entity means a water services entity established under section 11 of the Water Services Entities Act 2022

In the Schedule, after clause 74(4)(a), insert:

- (aa) water services entities, to participate in a disaster relief fund trust (if such a trust has been established in the region); and

In the Schedule, clause 75(5), after “authorities”, insert “and water services entities”.

In the Schedule, clause 75(6), after “authorities”, insert “and water services entities”.

In the Schedule, clause 85(4), replace “Regional councils and some territorial authorities” with “Regional councils, some territorial authorities, and water services entities”.

In the Schedule, clause 156(3), replace “local authorities and CDEM Groups” with “local authorities, water services entities (if a substantial part of the recovery relates to water services), and CDEM Groups”.

In the Schedule, Part 10 heading, after “**authorities**”, insert “**and water services entities**”.

National Civil Defence Emergency Management Plan Order 2015 (LI 2015/140)
—continued

In the Schedule, clause 159(1), after “authorities”, insert “and water services entities”.

In the Schedule, clause 159(4) after “authorities”, insert “and water services entities”.

In the Schedule, clause 160, after “authorities”, insert “and water services entities”.

In the Schedule, clause 161(2), after “authorities”, insert “and water services entities”.

In the Schedule, clause 161(4), after “authorities”, insert “and water services entities”.

In the Schedule, clause 161(5), after “authorities,”, insert “water services entities,”.

In the Schedule, clause 161(6), replace “and local authorities” with “local authorities, and water services entities”.

In the Schedule, clause 161(7), replace “and local authorities” with “local authorities, and water services entities”.

In the Schedule, clause 162, delete “by local authorities to”.

In the Schedule, clause 162(a), before “care”, insert “by local authorities to”.

In the Schedule, clause 162(b), before “take”, insert “by local authorities and water services entities to”.

In the Schedule, clause 162(c), before “take”, insert “by local authorities and water services entities to”.

In the Schedule, clause 163(1), after “authorities”, insert “and water services entities”.

In the Schedule, clause 163(2)(b), after “authorities”, insert “and water services entities”.