*Examined and certified:*

*Clerk of the House of Representatives*

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*In the name and on behalf of Her Majesty Queen Elizabeth the Second I hereby assent to this Act this 9th day of August 2005*

*Governor-General.*

# Resource Management Amendment Act 2005

Public Act 2005 No 87

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**Schedule 1**
**Amendments to Schedule 1 of principal Act**

**Schedule 2**
**New Schedule 1AA inserted in principal Act**

**The Parliament of New Zealand enacts as follows:**

### 1 Title

(1) This Act is the Resource Management Amendment Act 2005.

(2) In this Act, the Resource Management Act 1991 is called “the principal Act”.

### 2 Commencement

(1) This Act comes into force on the day after the date on which it receives the Royal assent, except as provided in subsections (2) to (5).

(2) Section 22(1) comes into force 12 months after the date on which this Act receives the Royal assent.

(3) The following provisions come into force 24 months after the date on which this Act receives the Royal assent:
- (a) section 22(2):
- (b) section 25(2).

(4) Section 67 comes into force 36 months after the date on which this Act receives the Royal assent.

(5) The following provisions come into force on a date to be appointed by the Governor-General by Order in Council:
- (a) section 108:
- (b) section 115(2) to (4):
- (c) section 117.

### 3 Purpose

The purpose of this Act is to amend the Resource Management Act 1991—
- (a) to improve the operation of the Act, in particular in relation to—
  - (i) the achievement of nationally consistent standards through national environmental standards and national policy statements; and
  - (ii) the making of decisions by consent authorities and the Environment Court; and
  - (iii) the power of the Minister for the Environment to call in applications for resource consents; and
  - (iv) the development of policy statements and plans by local authorities; and

(v) consultation with iwi and resource planning by iwi; and

(vi) the allocation of natural resources; and

(b) to make related and other amendments of a minor or technical nature.

**4 Interpretation**

(1) Section 2(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

"**accredited** means to hold a qualification approved and notified under section 39A

"**applicant**,—

"(a) in sections 40, 41B, 41C, and 42A, means the person who initiated a matter described in section 39(1):

"(b) in sections 141 to 150AA, has the meaning given to it by section 140

"**contaminated land** means land of 1 of the following kinds:

"(a) if there is an applicable national environmental standard on contaminants in soil, the land is more contaminated than the standard allows; or

"(b) if there is no applicable national environmental standard on contaminants in soil, the land has a hazardous substance in or on it that—

"(i) has significant adverse effects on the environment; or

"(ii) is reasonably likely to have significant adverse effects on the environment

"**existing use certificate** means a certificate issued under section 139A

"**infrastructure**, in section 30, means—

"(a) pipelines that distribute or transmit natural or manufactured gas, petroleum, or geothermal energy:

"(b) a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001:

"(c) a network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989:

"(d) facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support

structures for lines used or intended to be used to convey electricity, excluding facilities, lines, and support structures if a person—
“(i) uses them in connection with the generation of electricity for the person’s use; and
“(ii) does not use them to generate any electricity for supply to any other person:
“(e) a water supply distribution system, including a system for irrigation:
“(f) a drainage or sewerage system:
“(g) structures for transport on land by cycleways, rail, roads, walkways, or any other means:
“(h) facilities for the loading or unloading of cargo or passengers transported on land by any means:
“(i) an airport as defined in section 2 of the Airport Authorities Act 1966:
“(j) a navigation installation as defined in section 2 of the Civil Aviation Act 1990:
“(k) facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988:
“(l) anything described as a network utility operation in regulations made for the purposes of the definition of **network utility operator** in section 166

“**joint management agreement** means an agreement that—
“(a) is made by a local authority with 1 or more—
“(i) public authorities, as defined in paragraph (b) of the definition of **public authority**:
“(ii) iwi authorities or groups that represent hapu; and
“(b) provides for the parties to the joint management agreement jointly to perform or exercise any of the local authority’s functions, powers, or duties under this Act relating to a natural or physical resource; and
“(c) specifies the functions, powers, or duties; and
“(d) specifies the natural or physical resource; and
“(e) specifies whether the natural or physical resource is in the whole of the region or district or part of the region or district; and

"(f) may require the parties to the joint management agreement to perform or exercise a specified function, power, or duty together; and

"(g) if paragraph (f) applies, specifies how the parties to the joint management agreement are to make decisions; and

"(h) may specify any other terms or conditions relevant to the performance or exercise of the functions, powers, or duties, including but not limited to terms or conditions for liability and funding

"**national environmental standard** means a standard prescribed by regulations made under section 43

"**public authority**,—

"(a) in section 33, has the meaning given to it by section 33(2); and

"(b) in section 36B and the definition of **joint management agreement**, means—

"(i) a local authority; and

"(ii) a statutory body; and

"(iii) the Crown".

(2) The definition of **declaration** in section 2 of the principal Act is amended by adding the words "or section 313A".

**5 Certain existing uses in relation to land protected**

Section 10(2) of the principal Act is amended by omitting the word "and" after the expression "357", and substituting the word "to".

**6 Functions of Minister for the Environment**

(1) Section 24(b) of the principal Act is amended by omitting the words "regulations under section 43", and substituting the words "national environmental standards".

(2) Section 24 of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:

"(c) the making of decisions under section 141A on whether and, if relevant, how to intervene in a matter:".

**7 New section 24A inserted**

The principal Act is amended by inserting, after section 24, the following section:

“24A **Power of Minister for the Environment to investigate and make recommendations**

The Minister for the Environment may—

“(a) investigate the exercise or performance by a local authority of any of its functions, powers, or duties under this Act; and

“(b) make recommendations to the local authority on its exercise or performance of those functions, powers, or duties; and

“(c) investigate the failure or omission by a local authority to exercise or perform any of its functions, powers, or duties under this Act; and

“(d) make recommendations to the local authority on its failure or omission to exercise or perform those functions, powers, or duties; and

“(e) take action under section 25 or section 25A if the local authority’s failure or omission to act on a recommendation gives the Minister grounds to take action under 1 or both of those sections.”

**8 New section 25A inserted**

The principal Act is amended by inserting, after section 25, the following section:

“25A **Minister may direct preparation of plan, change, or variation**

“(1) The Minister for the Environment—

“(a) may direct a regional council—

“(i) to prepare a regional plan that addresses a resource management issue relating to a function in section 30; or

“(ii) to prepare a change to its regional plan that addresses the issue; or

“(iii) to prepare a variation to its proposed regional plan that addresses the issue; and

“(b) may direct the council, in preparing the plan, change, or variation, to deal with the whole or a specified part of the council’s region; and

“(c) must, in giving a direction, specify a reasonable period within which the plan, change, or variation must be notified.

“(2) The Minister—

“(a) may direct a territorial authority—

“(i) to prepare a change to its district plan that addresses a resource management issue relating to a function in section 31; or

“(ii) to prepare a variation to its proposed district plan that addresses the issue; and

“(b) must, in giving a direction, specify a reasonable period within which the change or variation must be notified.”

**9 New section 27 substituted**

The principal Act is amended by repealing section 27, and substituting the following section:

**“27 Minister may require local authorities to supply information**

“(1) The Minister for the Environment may require the bodies described in subsection (2) to supply the information described in subsection (3).

“(2) The bodies are—

“(a) a local authority; and

“(b) a network utility operator approved as a requiring authority; and

“(c) a body corporate approved as a heritage protection authority.

“(3) The information is information to which all the following apply:

“(a) it is about the body’s exercise of any of its functions, powers, or duties under this Act; and

“(b) it is held by the body; and

“(c) it may reasonably be required by the Minister.

“(4) The Minister must require the information in a notice that—

“(a) is in writing; and

“(b) is dated.

“(5) The body—

“(a) must supply the Minister with the information within—

“(i) 20 working days of the date of the notice; or

“(ii) a longer time set by the Minister; and

“(b) must not charge the Minister for the supply.”

**10 Delegation of functions by Ministers**

Section 29(1) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:

"(c) the making of decisions under section 141A on whether and, if relevant, how to intervene in a matter:".

**11 Functions of regional councils under this Act**

(1) Section 30(1) of the principal Act is amended by inserting, after paragraph (c), the following paragraph:

"(ca) the investigation of land for the purposes of identifying and monitoring contaminated land:".

(2) Section 30(1) of the principal Act is amended by inserting, after paragraph (f), the following paragraphs:

"(fa) if appropriate, the establishment of rules in a regional plan to allocate any of the following:
"(i) the taking or use of water (other than open coastal water):
"(ii) the taking or use of heat or energy from water (other than open coastal water):
"(iii) the taking or use of heat or energy from the material surrounding geothermal water:
"(iv) the capacity of air or water to assimilate a discharge of a contaminant:

"(fb) if appropriate, and in conjunction with the Minister of Conservation,—
"(i) the establishment of rules in a regional coastal plan to allocate the taking or use of heat or energy from open coastal water:
"(ii) the establishment of a rule in a regional coastal plan to allocate space in a coastal marine area under Part 7A:".

(3) Section 30(1) of the principal Act is amended by inserting, after paragraph (ga), the following paragraph:

"(gb) the strategic integration of infrastructure with land use through objectives, policies, and methods:".

(4) Section 30 of the principal Act is amended by adding the following subsection:

"(4) A rule to allocate a natural resource established by a regional council in a plan under subsection (1)(fa) or (fb) may allocate the resource in any way, subject to the following:

"(a) the rule may not, during the term of an existing resource consent, allocate the amount of a resource that has already been allocated to the consent; and

"(b) nothing in paragraph (a) affects section 68(7); and

"(c) the rule may allocate the resource in anticipation of the expiry of existing consents; and

"(d) in allocating the resource in anticipation of the expiry of existing consents, the rule may—

"(i) allocate all of the resource used for an activity to the same type of activity; or

"(ii) allocate some of the resource used for an activity to the same type of activity and the rest of the resource to any other type of activity or no type of activity; and

"(e) the rule may allocate the resource among competing types of activities; and

"(f) the rule may allocate water, or heat or energy from water, as long as the allocation does not affect the activities authorised by section 14(3)(b) to (e)."

**12 Functions of territorial authorities under this Act**

Section 31(1)(b) of the principal Act is amended by inserting, after subparagraph (ii), the following subparagraph:

"(iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:".

**13 Consideration of alternatives, benefits, and costs**

(1) Section 32(1)(a) of the principal Act is amended by omitting the words "regulations made under section 43", and substituting the words "a national environmental standard".

(2) Section 32 of the principal Act is amended by inserting, after subsection (3), the following subsection:

"(3A) This subsection applies to a rule that imposes a greater prohibition or restriction on an activity to which a national environmental standard applies than any prohibition or restriction in the standard. The evaluation of such a rule must examine

whether the prohibition or restriction it imposes is justified in the circumstances of the region or district."

(3) Section 32(4) of the principal Act is amended by omitting the words "this examination", and substituting the words "the examinations referred to in subsections (3) and (3A)".

**14 Delegation of powers and functions to employees and other persons**

Section 34A of the principal Act is amended by repealing subsection (3).

**15 Duty to gather information, monitor, and keep records**

Section 35(5) of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

"(aa) copies of all material incorporated by reference in any plan or proposed plan under Part 3 of Schedule 1; and".

**16 New section 35A inserted**

The principal Act is amended by inserting, after section 35, the following section:

"35A **Duty to keep records about iwi and hapu**

"(1) For the purposes of this Act, a local authority must keep and maintain, for each iwi and hapu within its region or district, a record of—

"(a) the contact details of each iwi authority within the region or district and any groups within the region or district that represent hapu for the purposes of this Act; and

"(b) the planning documents that are recognised by each iwi authority and lodged with the local authority; and

"(c) any area of the region or district over which 1 or more iwi or hapu exercise kaitiakitanga.

"(2) For the purposes of subsection (1)(a) and (c),—

"(a) the Crown must provide to each local authority information on—

"(i) the iwi authorities within the region or district of that local authority and the areas over which 1 or more iwi exercise kaitiakitanga within that region or district; and

"(ii) any groups that represent hapu for the purposes of this Act within the region or district of that local authority and the areas over which 1 or more hapu exercise kaitiakitanga within that region or district; and

"(iii) the matters provided for in subparagraphs (i) and (ii) that the local authority has advised to the Crown; and

"(b) the local authority must include in its records all the information provided to it by the Crown under paragraph (a).

"(3) In addition to any information provided by a local authority under subsection (2)(a)(iii), the local authority may also keep a record of information relevant to its region or district, as the case may be,—

"(a) on iwi, obtained directly from the relevant iwi authority; and

"(b) on hapu, obtained directly from the relevant group representing the hapu for the purposes of this Act.

"(4) In this section, the requirement under subsection (1) to keep and maintain a record does not apply in relation to hapu unless a hapu, through the group that represents it for the purposes of this Act, requests the Crown or the relevant local authority (or both) to include the required information for that hapu in the record.

"(5) If information recorded under subsection (1) conflicts with a provision of another enactment, advice given under the other enactment, or a determination made under the other enactment, as the case may be,—

"(a) the provision of the other enactment prevails; or

"(b) the advice given under the other enactment prevails; or

"(c) the determination made under the other enactment prevails.

"(6) Information kept and maintained by a local authority under this section must not be used by the local authority except for the purposes of this Act."

**17 Administrative charges**

(1) Section 36(1)(b) of the principal Act is amended by inserting, after the word “compliance”, the words “and existing use certificates”.

(2) Section 36(1)(c) of the principal Act is amended by inserting, after the word “compliance”, the words “and existing use certificates”.

(3) Section 36(1) of the principal Act is amended by inserting, after paragraph (ca), the following paragraph:

“(cb) charges payable by holders of resource consents, for the carrying out by the local authority of its functions in relation to reviewing consent conditions, if—

“(i) the review is carried out at the request of the consent holder; or

“(ii) the review is carried out under section 128(1)(a); or

“(iii) the review is carried out under section 128(1)(c):”.

(4) Section 36(6) of the principal Act is amended by omitting the expression “357 and”, and substituting the expression “357B to”.

**18 New headings and sections 36A to 36E inserted**

The principal Act is amended by inserting, after section 36, the following headings and sections:

“*Duties of local authorities and applicants*

**“36A No duty under this Act to consult about resource consent applications and notices of requirement**

“(1) The following apply to an applicant for a resource consent and the local authority:

“(a) neither has a duty under this Act to consult any person about the application; and

“(b) each must comply with a duty under any other enactment to consult any person about the application; and

“(c) each may consult any person about the application.

“(2) This section applies to a notice of requirement issued under any of sections 168, 168A, 189, and 189A by a requiring authority or a heritage protection authority, as if—

“(a) the notice were an application for a resource consent; and

“(b) the authority were an applicant.

*“Powers and duties of local authorities and other public authorities*

**“36B Power to make joint management agreement**

“(1) A local authority that wants to make a joint management agreement must—

“(a) notify the Minister that it wants to do so; and

“(b) satisfy itself—

“(i) that each public authority, iwi authority, and group that represents hapu for the purposes of this Act that, in each case, is a party to the joint management agreement—

“(A) represents the relevant community of interest; and

“(B) has the technical or special capability or expertise to perform or exercise the function, power, or duty jointly with the local authority; and

“(ii) that a joint management agreement is an efficient method of performing or exercising the function, power, or duty; and

“(c) include in the joint management agreement details of—

“(i) the resources that will be required for the administration of the agreement; and

“(ii) how the administrative costs of the joint management agreement will be met.

“(2) A local authority that complies with subsection (1) may make a joint management agreement.

**“36C Local authority may act by itself under joint management agreement**

“(1) This section applies when a joint management agreement requires the parties to it to perform or exercise a specified function, power, or duty together.

“(2) The local authority may perform or exercise the function, power, or duty by itself if a decision is required before the parties to the joint management agreement can perform or

exercise the function, power, or duty and the joint management agreement does not provide a method for making a decision of that kind.

"36D **Effect of joint management agreement**

A decision made under a joint management agreement has effect as a decision of the local authority.

"36E **Termination of joint management agreement**

Any party to a joint management agreement may terminate that agreement by giving the other parties 20 working days' notice."

**19 Persons to have powers of consent authority for purposes of sections 37 and 37A**

Section 37B(a) of the principal Act is amended by omitting the words "given under section 140", and substituting the words "made under section 141C".

**20 Hearings to be public and without unnecessary formality**

(1) Section 39(1) of the principal Act is amended by inserting, after the expression "34,", the expression "34A,".

(2) Section 39(1) of the principal Act is amended by omitting the expression "357", and substituting the expression "357C".

(3) Section 39(1)(e) of the principal Act is amended by adding the words "under section 141B(1)(a)".

**21 New section 39A inserted**

The principal Act is amended by inserting, after section 39, the following section:

"39A **Accreditation**

The Minister must—

"(a) approve a qualification or qualifications establishing a person's accreditation; and

"(b) notify each qualification in the *Gazette*."

**22 New section 39B inserted**

(1) The principal Act is amended by inserting, after section 39A, the following section:

“39B **Persons who may be given hearing authority**

“(1) This section applies when a local authority wants to apply any of sections 33, 34, and section 34A to give authority to 1 person or a group of persons to conduct a hearing on—

“(a) an application for a resource consent notified under section 93; or

“(b) a notice of requirement given under section 168 or section 189; or

“(c) a request under clause 21(1) of Schedule 1 for a change to be made to a plan.

“(2) If the local authority wants to give authority to 1 person, it may do so only if the person is accredited.

“(3) If the local authority wants to give authority to a group of persons that has a chairperson, it may do so only if the chairperson is accredited.”

(2) Section 39B of the principal Act is amended by adding the following subsection:

“(4) If the local authority wants to give authority to a group of persons, whether or not the group has a chairperson, it may do so only if over half of all the persons are accredited.”

**23 New section 39C inserted**

The principal Act is amended by inserting, after section 39B, the following section:

“39C **Effect of lack of accreditation**

“(1) This section applies when a local authority purports to give authority under section 39B to a person or group of persons, but does not in fact give it because the person, chairperson of the group, or members of the group are not accredited as required by the section.

“(2) No decision made by the person or group of persons is invalid solely because the person, chairperson of the group, or members of the group were not accredited as required by section 39B.”

**24 Provisions relating to hearings**

Section 41(1) of the principal Act is amended by inserting, after the expression “34,”, the expression “34A,”.

**25 New sections 41A to 41C inserted**

(1) The principal Act is amended by inserting, after section 41, the following sections:

"41A **Control of hearings**

An authority conducting a hearing on a matter described in section 39(1) may exercise a power under section 41B or section 41C, after considering whether the scale and significance of the hearing makes the exercise of the power appropriate.

"41B **Directions to provide evidence within time limits**

"(1) The authority may direct the applicant to provide briefs of evidence to the authority before the hearing.

"(2) The applicant must provide the briefs of evidence at least 10 working days before the hearing.

"(3) The authority may direct a person who has made a submission and who is intending to call expert evidence to provide briefs of the evidence to the authority before the hearing.

"(4) The person must provide the briefs of evidence at least 5 working days before the hearing.

"(5) If the authority has exercised a power under this section, section 101(2) does not apply. Instead, the authority must hold the hearing within 40 working days of the closing date for submissions.

"41C **Directions and requests before or at hearings**

"(1) Before or at the hearing, the authority may—

"(a) direct the order of business at the hearing, including the order in which evidence and submissions are presented; or

"(b) direct that evidence and submissions be—

"(i) recorded; or

"(ii) taken as read; or

"(iii) limited to matters in dispute; or

"(c) direct the applicant, when presenting evidence or a submission, to present it within a time limit; or

"(d) direct a person who has made a submission, when presenting evidence or a submission, to present it within a time limit.

“(2) Before or at the hearing, the authority may request a person who has made a submission to provide further information.

“(3) At the hearing, the authority may request the applicant to provide further information.

“(4) At the hearing, the authority may commission a consultant or any other person employed for the purpose to prepare a report on any matter on which the authority requires further information, if all the following apply:

“(a) the activity that is the subject of the hearing may, in the authority’s opinion, have a significant adverse environmental effect; and

“(b) the applicant is notified before the authority commissions the report; and

“(c) the applicant does not refuse to agree to the commissioning of the report.

“(5) The authority must provide copies of the report to the applicant and any person who made a submission.

“(6) At the hearing, the authority may direct a person presenting a submission not to present—

“(a) the whole submission, if all of it is irrelevant or not in dispute; or

“(b) any part of it that is irrelevant or not in dispute.”

(2) Section 41C of the principal Act is amended by adding the following subsections:

“(7) Before or at the hearing, the authority may direct that the whole, or a part, of a submission be struck out if the authority considers—

“(a) that the whole submission, or the part, is frivolous or vexatious; or

“(b) that the whole submission, or the part, discloses no reasonable or relevant case; or

“(c) that it would otherwise be an abuse of the hearing process to allow the whole submission, or the part, to be taken further.

“(8) If the authority gives a direction under subsection (7), it must record its reasons for the direction.

“(9) A person whose submission, or part of whose submission, is struck out has a right of objection under section 357.”

**26 Reports to local authorities**

(1) Section 42A of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(1) At any reasonable time before a hearing or, if no hearing is to be held, before the decision is made, a local authority may require an officer of a local authority as defined in section 42(6), or may commission a consultant or any other person employed for the purpose, to prepare a report on information provided on any matter described in section 39(1) by the applicant or any person who made a submission.”

(2) Section 42A(3) of the principal Act is amended by omitting the words “, or the person who made a requirement for a designation or heritage order (as the case may be),”.

**27 Regulations prescribing national environmental standards**

Section 43(1)(a) of the principal Act is amended by inserting, after the expression “section 9,”, the expression “section 11,”.

**28 Additional powers to implement national environmental standards**

(1) Section 43A(1) of the principal Act is amended by omitting the words “Regulations made under section 43”, and substituting the words “National environmental standards”.

(2) Section 43A(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

“(b) allow an activity:”.

(3) Section 43A(1)(c) and (d) of the principal Act is amended by omitting the words “the regulations” in both places where they appear, and substituting in each place the words “a national environmental standard”.

(4) Section 43A(1)(e) of the principal Act is amended by omitting—

(a) the words “the regulations”, and substituting the words “a national environmental standard”; and

(b) the word “regulation” in both places where it appears, and substituting in each place the word “standard”.

(5) Section 43A(1)(f) of the principal Act is amended by omitting the words “the regulations”, and substituting the words “a national environmental standard”.

(6) Section 43A of the principal Act is amended by repealing subsection (2), and substituting the following subsections:

“(2) A national environmental standard that prohibits an activity—
“(a) may do 1 or both of the following:
“(i) state that a resource consent may be granted for the activity, but only on the terms or conditions specified in the standard; and
“(ii) require compliance with the rules in a plan or proposed plan as a term or condition; or
“(b) may state that the activity is a prohibited activity.

“(3) If an activity has significant adverse effects on the environment, a national environmental standard must not, under subsections (1)(b) and (4),—
“(a) allow the activity, unless it states that a resource consent is required for the activity; or
“(b) state that the activity is a permitted activity.

“(4) A national environmental standard that allows an activity—
“(a) may state that a resource consent is not required for the activity; or
“(b) may do 1 or both of the following:
“(i) state that the activity is a permitted activity, but only on the terms or conditions specified in the standard; and
“(ii) require compliance with the rules in a plan or proposed plan as a term or condition.

“(5) If a national environmental standard allows an activity and states that a resource consent is not required for the activity, or states that an activity is a permitted activity, the following provisions apply to plans and proposed plans:
“(a) a plan or proposed plan may state that the activity is a permitted activity on the terms or conditions specified in the plan; and
“(b) the terms or conditions specified in the plan may deal only with effects of the activity that are different from those dealt with in the terms or conditions specified in the standard; and

“(c) if a plan’s terms or conditions deal with effects of the activity that are the same as those dealt with in the terms or conditions specified in the standard, the terms or conditions in the standard prevail.

“(6) A national environmental standard that allows a resource consent to be granted for an activity—

“(a) may state that the activity is—

“(i) a controlled activity; or

“(ii) a restricted discretionary activity; or

“(iii) a discretionary activity; or

“(iv) a non-complying activity; and

“(b) may state the matters over which—

“(i) control is reserved; or

“(ii) discretion is restricted.”

**29 New sections 43B to 43G substituted**

The principal Act is amended by repealing sections 43B to 43E, and substituting the following sections:

“43B **Relationship between national environmental standards and rules or consents**

“(1) A rule or resource consent that is more stringent than a national environmental standard prevails over the standard, if the standard expressly says that a rule or consent may be more stringent than it.

“(2) For the purposes of subsection (1),—

“(a) a rule is more stringent than a standard if it prohibits or restricts an activity that the standard permits or authorises:

“(b) a resource consent is more stringent than a standard if it imposes conditions on an activity that the standard does not impose or authorise.

“(3) A rule or resource consent may not be more lenient than a national environmental standard.

“(4) For the purposes of subsection (3), a rule or resource consent is more lenient than a standard if it permits or authorises an activity that the standard prohibits or restricts.

“(5) A resource consent that exists when a national environmental standard is made prevails over the standard. This subsection does not apply to water, coastal, or discharge permits.

“(6) A water, coastal, or discharge permit that exists when a national environmental standard is made prevails over the standard until a review of the permit’s conditions under section 128(1)(ba) results in some or all of the standard prevailing over the permit.

“(7) A national environmental standard that exists before the hearing of an application for a resource consent begins prevails over a resource consent granted as a result of the application.

“(8) A national environmental standard that prescribes transitional provisions relating to a resource consent application notified before the commencement of the standard prevails over a resource consent granted as a result of the application to the extent (if any) specified in the standard.

“(9) If a national environmental standard requires a resource consent to be obtained for an activity, sections 10, 10A, 10B, and 20A(2) apply to the activity as if the standard were a rule in a plan that had become operative.

### “43C **Relationship between national environmental standards and water conservation orders**

“(1) A water conservation order that is more stringent than a national environmental standard applying to water prevails over the standard.

“(2) A national environmental standard applying to water that is more stringent than a water conservation order prevails over the order.

### “43D **Relationship between national environmental standards and designations**

“(1) A designation that exists when a national environmental standard is made prevails over the standard until the earlier of the following:

“(a) the designation lapses:

“(b) the designation is altered under section 181 by the alteration of conditions in it to which the standard is relevant.

“(2) If the conditions of a designation are altered as described in subsection (1)(b), the standard—

“(a) applies to the altered conditions; and

“(b) does not apply to the unaltered conditions.

“(3) A national environmental standard prevails over a designation that requires an outline plan if, when the standard is made,—

“(a) the designation exists; and

“(b) no outline plan for the designation has completed the process described in section 176A.

“(4) A national environmental standard that exists when a designation is made prevails over the designation.

“(5) A use is not required to comply with a national environmental standard if—

“(a) the use was lawfully established by way of a designation that has lapsed; and

“(b) the effects of the use, in character, intensity, and scale, are the same as or similar to those that existed before the designation lapsed; and

“(c) the standard is made—

“(i) after the designation was made; and

“(ii) before or after it lapses.

“(6) Work under a designation is not required to comply with a national environmental standard if the work has come under the designation through the following sequence of events:

“(a) the work is made; and

“(b) the standard is made; and

“(c) the designation is applied to the work.

“(7) In this section, **conditions** includes a condition about the physical boundaries of a designation.

### “43E Relationship between national environmental standards and bylaws

“(1) A bylaw that is more stringent than a national environmental standard prevails over the standard, if the standard expressly says that a bylaw may be more stringent than it.

“(2) For the purposes of subsection (1), a bylaw is more stringent than a standard if it prohibits or restricts an activity that the standard permits or authorises.

“(3) A bylaw may not be more lenient than a national environmental standard.

“(4) For the purposes of subsection (3), a bylaw is more lenient than a standard if it permits or authorises an activity that the standard prohibits or restricts.

“(5) In this section, **bylaw** means a bylaw made under any enactment.

**“43F Description of discharges in national environmental standards for discharges**

A national environmental standard for an activity that is a discharge may describe the discharge by referring to—

“(a) particular contaminants or sources of contaminants in a discharge; or

“(b) the circumstances or sources of a discharge.

**“43G Incorporation of material by reference in national environmental standards**

A national environmental standard may incorporate material by reference under Schedule 1AA.”

**30 Restriction on power to make regulations prescribing national environmental standards**

(1) The heading of section 44 of the principal Act is amended by omitting the words “**regulations prescribing**”.

(2) Section 44 of the principal Act is amended by omitting—

(a) the words “regulations under section 43”, and substituting the words “national environmental standard”; and

(b) from paragraphs (a)(i) and (b)(i) and (ii) the word “regulations” in each place where it appears, and substituting in each place the word “standard”; and

(c) from paragraph (a)(ii) the words “regulations are”, and substituting the words “standard is”.

(3) Section 44 of the principal Act is amended by inserting, after the word “public” in both places where it appears, the words “and iwi authorities”.

**31 Proposed national policy statement**

Section 46(a) of the principal Act is amended by inserting, after the words “comments from”, the words “the relevant iwi authorities and”.

**32 New section 46A inserted**

The principal Act is amended by inserting, after section 46, the following section:

"46A **Minister chooses process**

"(1) After preparing a proposed national policy statement under sections 45 and 46, the Minister must—
"(a) use the process set out in sections 47 to 52; or
"(b) establish, and then use, a process that—
"(i) gives the public adequate time and opportunity to make a submission on the statement; and
"(ii) requires a report and recommendations to be made to the Minister on the submissions and the subject matter of the statement; and
"(iii) incorporates sections 51 and 52 as if their references to a board of inquiry were references to the person who prepares the report and recommendations.

"(2) When choosing between subsection (1)(a) and subsection (1)(b), the Minister may consider the following matters:
"(a) the advantages and disadvantages of having the proposed national policy statement made quickly:
"(b) the extent to which the policy in the proposed national policy statement differs from the policies in—
"(i) other national policy statements; and
"(ii) regional policy statements; and
"(iii) regional or district plans:
"(c) the extent and timing of public debate and public consultation that took place on the policy before the proposed national policy statement was prepared:
"(d) any other relevant matter.

"(3) The Minister must not choose a process established under subsection (1)(b) if the proposed national policy statement includes a provision of the kind described in section 55(2A)(b).

"(4) A national policy statement prepared after the use of a process established under subsection (1)(b) is a regulation for the purposes of the Regulations (Disallowance) Act 1989, but is not a regulation for the purposes of the Acts and Regulations Publication Act 1989."

**33 New section 46B inserted**

The principal Act is amended by inserting, after section 46A, the following section:

“46B **Incorporation of material by reference in national policy statements**

A national policy statement may incorporate material by reference under Schedule 1AA.”

### 34 Changes to or review or revocation of national policy statements

Section 53 of the principal Act is amended by omitting the words “complying with the same procedure as is set out in sections 46 to 52”, and substituting the words “using 1 of the processes referred to in section 46A(1)”.

### 35 Local authority recognition of national policy statements

Section 55 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) In subsections (2) and (2A), **document** means—

“(a) a regional policy statement; or

“(b) a proposed regional policy statement; or

“(c) a proposed plan; or

“(d) a plan; or

“(e) a variation.

“(2) A local authority must—

“(a) amend a document to give effect to a provision in a national policy statement that affects the document; and

“(b) make the amendment—

“(i) as soon as practicable; or

“(ii) within the time specified in the national policy statement; or

“(iii) before the occurrence of an event specified in the national policy statement.

“(2A) A national policy statement—

“(a) must state whether a local authority is required to use the process set out in Schedule 1 to amend a document under subsection (2); and

“(b) may direct that specific provisions are to be included in a document, without notification or hearing, under clause 16 of Schedule 1.”

**36 Preparation of New Zealand coastal policy statements**

Section 57(1) of the principal Act is amended by omitting the words "in the manner set out in sections 46 to 52 as if references in those sections", and substituting the words "using 1 of the processes referred to in section 46A(1), as if references in sections 46 to 52".

**37 Contents of New Zealand coastal policy statements**

Section 58 of the principal Act is amended by inserting, after the word "state", the words "objectives and".

**38 New section 58A inserted**

The principal Act is amended by inserting, after section 58, the following section:

"58A **Incorporation of material by reference in New Zealand coastal policy statements**

A New Zealand coastal policy statement may incorporate material by reference under Schedule 1AA."

**39 Preparation and change of other regional plans**

(1) Section 65(1) of the principal Act is amended by omitting the expression "(e), (f), (g), or (ga)", and substituting the expression "(ca), (e), (f), (fa), (fb), (g), or (ga)".

(2) Section 65 of the principal Act is amended by inserting, after subsection (1), the following subsection:

"(1A) A regional council given a direction under section 25A(1) must—

"(a) prepare a regional plan that implements the direction; or

"(b) prepare a change to its regional plan in a way that implements the direction; or

"(c) prepare a variation to its regional plan in a way that implements the direction."

(3) Section 65 of the principal Act is amended by adding the following subsections:

"(6) A regional council must amend a proposed regional plan or regional plan to give effect to a regional policy statement, if—

"(a) the statement contains a provision to which the plan does not give effect; and

"(b) 1 of the following occurs:

“(i) the statement is reviewed under section 79 and not changed or replaced; or

“(ii) the statement is reviewed under section 79 and is changed or replaced and the change or replacement becomes operative; or

“(iii) the statement is changed or varied and becomes operative.

“(7) A local authority must comply with subsection (6)—

“(a) within the time specified in the statement, if a time is specified; or

“(b) as soon as reasonably practicable, in any other case.”

**40 Matters to be considered by regional council**

(1) Section 66(1) of the principal Act is amended by inserting, after the expression “Part 2,”, the words “a direction given under section 25A(1),”.

(2) Section 66(2) of the principal Act is amended by omitting the expression “section 67(2)”, and substituting the words “section 67(3) and (4)”.

**41 New section 67 substituted**

The principal Act is amended by repealing section 67, and substituting the following section:

**“67 Contents of regional plans**

“(1) A regional plan must state—

“(a) the objectives for the region; and

“(b) the policies to implement the objectives; and

“(c) the rules (if any) to implement the policies.

“(2) A regional plan may state—

“(a) the issues that the plan seeks to address; and

“(b) the methods, other than rules, for implementing the policies for the region; and

“(c) the principal reasons for adopting the policies and methods; and

“(d) the environmental results expected from the policies and methods; and

“(e) the procedures for monitoring the efficiency and effectiveness of the policies and methods; and

“(f) the processes for dealing with issues—

“(i) that cross local authority boundaries; or

“(ii) that arise between territorial authorities; or
“(iii) that arise between regions; and
“(g) the information to be included with an application for a resource consent; and
“(h) any other information required for the purpose of the regional council’s functions, powers, and duties under this Act.

“(3) A regional plan must give effect to—
“(a) any national policy statement; and
“(b) any New Zealand coastal policy statement; and
“(c) any regional policy statement.

“(4) A regional plan must not be inconsistent with—
“(a) a water conservation order; or
“(b) any other regional plan for the region; or
“(c) a determination or reservation of the chief executive of the Ministry of Fisheries made under section 186E of the Fisheries Act 1996.

“(5) A regional plan must record how a regional council has allocated a natural resource under section 30(1)(fa) or (fb) and (4), if the council has done so.

“(6) A regional plan may incorporate material by reference under Part 3 of Schedule 1.”

## 42 Regional rules

Section 68 of the principal Act is amended by adding the following subsection:

“(11) If paragraph (b) of the definition of **contaminated land** applies, a rule may exempt from its coverage an area or class of contaminated land if the rule—
“(a) provides how the significant adverse effects on the environment that the hazardous substance has are to be remedied or mitigated; or
“(b) provides how the significant adverse effects on the environment that the hazardous substance is reasonably likely to have are to be avoided; or
“(c) treats the land as not contaminated for purposes stated in the rule.”

### 43 Implementation of regulations made under section 43

(1) The heading of section 70B of the principal Act is amended by omitting the words "**regulations made under section 43**", and substituting the words "**national environmental standards**".

(2) Section 70B of the principal Act is amended by omitting—

(a) the words "regulations are made under section 43", and substituting the words "a national environmental standard is made"; and

(b) the word "regulations" in both places where it appears, and substituting in each place the word "standard".

### 44 Preparation and change of district plans

(1) Section 73 of the principal Act is amended by inserting, after subsection (1A), the following subsection:

"(1B) A territorial authority given a direction under section 25A(2) must prepare a change to its district plan in a way that implements the direction."

(2) Section 73 of the principal Act is amended by adding the following subsections:

"(4) A local authority must amend a proposed district plan or district plan to give effect to a regional policy statement, if—

"(a) the statement contains a provision to which the plan does not give effect; and

"(b) 1 of the following occurs:

"(i) the statement is reviewed under section 79 and not changed or replaced; or

"(ii) the statement is reviewed under section 79 and is changed or replaced and the change or replacement becomes operative; or

"(iii) the statement is changed or varied and becomes operative.

"(5) A local authority must comply with subsection (4)—

"(a) within the time specified in the statement, if a time is specified; or

"(b) as soon as reasonably practicable, in any other case."

**45 Matters to be considered by territorial authority**

(1) Section 74(1) of the principal Act is amended by inserting, after the expression "Part 2,", the words "a direction given under section 25A(2),".

(2) Section 74(2) of the principal Act is amended by omitting the expression "section 75(2)", and substituting the words "section 75(3) and (4)".

**46 New section 75 substituted**

The principal Act is amended by repealing section 75, and substituting the following section:

"75 **Contents of district plans**

"(1) A district plan must state—

"(a) the objectives for the district; and

"(b) the policies to implement the objectives; and

"(c) the rules (if any) to implement the policies.

"(2) A district plan may state—

"(a) the significant resource management issues for the district; and

"(b) the methods, other than rules, for implementing the policies for the district; and

"(c) the principal reasons for adopting the policies and methods; and

"(d) the environmental results expected from the policies and methods; and

"(e) the procedures for monitoring the efficiency and effectiveness of the policies and methods; and

"(f) the processes for dealing with issues that cross territorial authority boundaries; and

"(g) the information to be included with an application for a resource consent; and

"(h) any other information required for the purpose of the territorial authority's functions, powers, and duties under this Act.

"(3) A district plan must give effect to—

"(a) any national policy statement; and

"(b) any New Zealand coastal policy statement; and

"(c) any regional policy statement.

"(4) A district plan must not be inconsistent with—

"(a) a water conservation order; or

"(b) a regional plan for any matter specified in section 30(1).

"(5) A district plan may incorporate material by reference under Part 3 of Schedule 1."

### 47 District rules

Section 76 of the principal Act is amended by adding the following subsection:

"(5) If paragraph (b) of the definition of **contaminated land** applies, a rule may exempt from its coverage an area or class of contaminated land if the rule—

"(a) provides how the significant adverse effects on the environment that the hazardous substance has are to be remedied or mitigated; or

"(b) provides how the significant adverse effects on the environment that the hazardous substance is reasonably likely to have are to be avoided; or

"(c) treats the land as not contaminated for purposes stated in the rule."

### 48 Types of activities

Section 77B(2) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraphs:

"(a) a resource consent is required for the activity; and

"(aa) the consent authority must grant the resource consent, unless it has insufficient information to determine whether or not the activity is a controlled activity; and".

### 49 Circumstances when further review required

Section 79A of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

"(2) The regional council that has responsibility for the area where the reserve is located must review its regional policy statement and each regional plan to the extent necessary to ensure that they recognise and provide for the management plan. It must start the review within 6 months of the management plan being lodged under subsection (1)(b)."

**50 Making an application**

Section 88(5) of the principal Act is amended by omitting the word "and" after the expression "357", and substituting the word "to".

**51 New sections 88B and 88C substituted**

The principal Act is amended by repealing section 88B, and substituting the following sections:

"88B **Processing provisions from which periods described in section 88C are excluded**

The periods described in section 88C(2), (4), (6), (8), (10), and (12) must be excluded from the calculation of time limits in—

"(a) section 95, which deals with the time limit for notification; and

"(b) section 101(2A), which deals with the time limit for the commencement of a hearing if the application was not notified or if notice was not served; and

"(c) section 115(b), which deals with the time limit for notification of the decision on an application for a resource consent if a hearing is not held; and

"(d) section 173, which deals with the time limit for notification of the decision on a designation.

"88C **Description of excluded periods**

"(1) Subsection (2) applies when—

"(a) a consent authority has requested an applicant, under section 92(1), to provide further information; and

"(b) the applicant provides further information under section 92A(1)(a) or section 92A(1)(b) and (2).

"(2) The period that must be excluded from the provisions listed in section 88B is the period—

"(a) starting with the date of the request under section 92(1); and

"(b) ending with the date on which the applicant provides the information.

"(3) Subsection (4) applies when—

"(a) a consent authority has requested an applicant, under section 92(1), to provide further information; and

"(b) 1 of the following applies:

"(i) the applicant does not respond within the time limit specified in section 92A(1); or
"(ii) the applicant responds under section 92A(1)(b) but does not comply with the time limit set under section 92A(2); or
"(iii) the applicant responds under section 92A(1)(c).

"(4) The period that must be excluded from the provisions listed in section 88B is the period—
"(a) starting with the date of the request under section 92(1); and
"(b) ending with—
"(i) the date on which the 15 working days end, for an applicant who does not respond within the time limit specified in section 92A(1):
"(ii) the date on which the time limit set under section 92A(2) ends, for an applicant who responds under section 92A(1)(b):
"(iii) the date on which the applicant responds under section 92A(1)(c), for an applicant who responds under section 92A(1)(c).

"(5) Subsection (6) applies when—
"(a) a consent authority has notified an applicant, under section 92(2)(b), of its wish to commission a report; and
"(b) the applicant agrees, under section 92B(1), to the commissioning of the report.

"(6) The period that must be excluded from the provisions listed in section 88B is the period—
"(a) starting with the date of the notification under section 92(2)(b); and
"(b) ending with the date on which the authority receives the report.

"(7) Subsection (8) applies when—
"(a) a consent authority has notified an applicant, under section 92(2)(b), of its wish to commission a report; and
"(b) the applicant does not agree, under section 92B(1), to the commissioning of the report.

"(8) The period that must be excluded from the provisions listed in section 88B is the period—
"(a) starting with the date of the notification under section 92(2)(b); and

“(b) ending with the earlier of the following:
“(i) the date on which the 15 working days end; and
“(ii) the date on which the authority receives the applicant’s refusal, under section 92B(1), to agree to the commissioning of the report.

“(9) Subsection (10) applies when an applicant tries, for the purposes of section 94, to obtain the approval of persons who may be adversely affected.

“(10) The period that must be excluded from the provisions listed in section 88B is the time taken by the applicant in trying to obtain the approvals, whether or not they are obtained.

“(11) Subsection (12) applies when a consent authority refers persons to mediation under section 99A.

“(12) The period that must be excluded from the provisions listed in section 88B is the period—
“(a) starting with the date of the reference; and
“(b) ending with the earlier of the following:
“(i) the date on which 1 of the persons referred to mediation gives the other persons referred and the mediator a written notice withdrawing the person’s consent to the mediation; and
“(ii) the date on which the mediator reports the outcome of the mediation to the authority.”

**52 Further information may be required**

(1) Section 92 of the principal Act is amended by omitting the heading, and substituting the heading “**Further information, or agreement, may be requested**”.

(2) Section 92(1) of the principal Act is amended by omitting the word “require”, and substituting the word “request”.

(3) Section 92 of the principal Act is amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) At any reasonable time before a hearing or, if no hearing is to be held, before the decision is made, a consent authority may commission any person to prepare a report on any matter relating to an application, including information provided by the applicant in the application or under this section, if all the following apply:

"(a) the activity for which the resource consent is sought may, in the authority's opinion, have a significant adverse environmental effect; and
"(b) the applicant is notified before the authority commissions the report; and
"(c) the applicant does not refuse, under section 92B(1), to agree to the commissioning of the report.

"(3) The consent authority must notify the applicant, in writing, of its reasons for—
"(a) requesting further information under subsection (1); or
"(b) wanting to commission a report under subsection (2).

"(3A) The information or report must be available at the office of the consent authority no later than 10 working days before the hearing of an application. This subsection does not apply if—
"(a) the applicant refuses, under section 92A, to provide the further information; or
"(b) the applicant refuses, under section 92B, to agree to the commissioning of the report."

(4) Section 92(5) of the principal Act is amended by omitting the expression "357 and", and substituting the words "357A(1) and 357C to".

**53 New sections 92A and 92B inserted**

The principal Act is amended by inserting, after section 92, the following sections:

"92A **Responses to request**

"(1) An applicant who receives a request under section 92(1) must, within 15 working days of the date of the request, take 1 of the following options:
"(a) provide the information; or
"(b) tell the consent authority in a written notice that the applicant agrees to provide the information; or
"(c) tell the consent authority in a written notice that the applicant refuses to provide the information.

"(2) A consent authority that receives a written notice under subsection (1)(b) must—
"(a) set a reasonable time within which the applicant must provide the information; and
"(b) tell the applicant in a written notice the date by which the applicant must provide the information.

“(3) The consent authority may decline the application if—
“(a) 1 of the following applies:
“(i) the applicant does not respond within the time limit specified in subsection (1); or
“(ii) the applicant responds under subsection (1)(b) but does not comply with the time limit set under subsection (2); or
“(iii) the applicant responds under subsection (1)(c); and
“(b) the authority considers that it has insufficient information to enable it to determine the application.

“(4) If the applicant appeals to the Environment Court against the decision to decline the application, the Court must decide whether the authority had sufficient information to enable it to determine the application.

“(5) If the Court decides that the authority did not have sufficient information to enable it to determine the application, it must decline the appeal.

“(6) If the Court decides that the authority had sufficient information to enable it to determine the application, it must hear and decide the appeal.

“92B **Responses to notification**

“(1) An applicant who receives a notification under section 92(2)(b) must, within 15 working days of the date of the notification, tell the consent authority in a written notice whether the applicant agrees to the commissioning of the report.

“(2) The consent authority may decline the application if—
“(a) 1 of the following applies:
“(i) the applicant does not respond within the time limit specified in subsection (1); or
“(ii) the consent authority receives a written notice refusing the applicant’s agreement to the commissioning of the report; and
“(b) the authority considers that it has insufficient information to enable it to determine the application.

“(3) If the applicant appeals to the Environment Court against the decision to decline the application, the Court must decide

whether the authority had sufficient information to enable it to determine the application.

"(4) If the Court decides that the authority did not have sufficient information to enable it to determine the application, it must decline the appeal.

"(5) If the Court decides that the authority had sufficient information to enable it to determine the application, it must hear and decide the appeal."

**54 Forming opinion as to whether adverse effects are minor or more than minor**

(1) Section 94A(b) of the principal Act is amended by adding the word "; and".

(2) Section 94A of the principal Act is amended by adding the following paragraph:

"(c) must disregard any effect on a person who has given written approval to the application."

**55 Making of submissions**

Section 96(3) of the principal Act is amended by adding the words "or is neutral".

**56 Time limit for submissions**

Section 97 of the principal Act is amended by adding the words "under section 93 or service of notice under section 94(1)".

**57 Heading amended and new section 99 substituted**

(1) The principal Act is amended by adding, to the heading above section 99, the words "*and mediation*".

(2) The principal Act is amended by repealing section 99, and substituting the following section:

**"99 Pre-hearing meetings**

"(1) A consent authority may invite or require a person who has made an application for a resource consent and some or all of the persons who have made submissions on the application to attend a meeting with the following:

"(a) each other or one another; and

"(b) the authority; and

“(c) anyone else whose presence at the meeting the authority considers appropriate.

“(2) The authority may invite or require persons to attend a meeting—
“(a) either—
“(i) at the request of 1 or more of the persons; or
“(ii) on its own initiative; and
“(b) only for the purpose of—
“(i) clarifying a matter or issue; or
“(ii) facilitating resolution of a matter or issue.

“(3) The authority may require persons to attend a meeting only with the consent of the person who made the application.

“(4) A person who is a member, delegate, or officer of the authority, and who has the power to make the decision on the application that is the subject of the meeting, may attend and participate if—
“(a) the authority is satisfied that its member, delegate, or officer should be able to attend and participate; and
“(b) all the persons at the meeting agree.

“(5) The chairperson of the meeting must, before the hearing, prepare a report that—
“(a) does not include anything communicated or made available at the meeting on a without prejudice basis; and
“(b) for the parties who attended the meeting,—
“(i) sets out the issues that were agreed; and
“(ii) sets out the issues that are outstanding; and
“(c) for all the parties,—
“(i) may set out the nature of the evidence that the parties are to call at the hearing; and
“(ii) may set out the order in which the parties are to call the evidence at the hearing; and
“(iii) may set out a proposed timetable for the hearing.

“(6) The chairperson of the meeting must, before the hearing, send the report to the authority and all the parties so that they have it at least 5 working days before the hearing.

“(7) The consent authority must have regard to the report in making its decision on the application.

“(8) If a person required to attend a meeting fails to do so, and does not give a reasonable excuse, the consent authority may decline—

"(a) to process the person's application; or
"(b) to consider the person's submission.

"(9) If the consent authority declines, under subsection (8)(a), to process the person's application,—
"(a) the person may not appeal under section 120 against the decision; and
"(b) the person may object under section 357A against the decision.

"(10) If the consent authority declines, under subsection (8)(b), to consider the person's submission, the person—
"(a) may not appeal under section 120 against—
"(i) the decision to decline to consider the submission; or
"(ii) the decision on the application; and
"(b) may not become under section 274 a party to proceedings; and
"(c) may object under section 357A against the decision to decline to consider the submission."

**58 New section 99A inserted**

The principal Act is amended by inserting, after section 99, the following section:

"99A **Mediation**

"(1) A consent authority may refer to mediation a person who has made an application for a resource consent and some or all of the persons who have made submissions on the application.

"(2) The authority may exercise the power in subsection (1)—
"(a) either—
"(i) at the request of 1 of the persons; or
"(ii) on its own initiative; and
"(b) only with the consent of all the persons being referred; and
"(c) only for the purpose of mediating between the persons on a matter or issue.

"(3) Mediation under this section must be conducted by—
"(a) a person to whom the authority delegates, under section 34A, the power to mediate; or
"(b) a person whom the authority appoints to mediate, if the authority is the person who has made an application for a resource consent.

"(4) The person who conducts the mediation must report the outcome of the mediation to the consent authority."

**59 Consideration of applications**

Section 104 of the principal Act is amended by inserting, after subsection (2), the following subsection:

"(2A) When considering an application affected by section 124, the consent authority must have regard to the value of the investment of the existing consent holder."

**60 Determination of applications for controlled activities**

Section 104A of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

"(a) must grant the resource consent, unless it has insufficient information to determine whether or not the activity is a controlled activity; and".

**61 Implementation of regulations made under section 43**

(1) The heading of section 104F of the principal Act is amended by omitting the words "**regulations made under section 43**", and substituting the words "**national environmental standards**".

(2) Section 104F of the principal Act is amended by omitting—

(a) the words "regulations are made under section 43", and substituting the words "a national environmental standard is made"; and

(b) the word "regulations" in both places where it appears, and substituting in each place the word "standard".

**62 Decisions on applications to be in writing, etc**

Section 113(1) of the principal Act is amended by inserting, after paragraph (a), the following paragraphs:

"(aa) the relevant statutory provisions that were considered by the consent authority; and

"(ab) any relevant provisions of the following that were considered by the consent authority:

"(i) a national policy statement:

"(ii) a New Zealand coastal policy statement:

"(iii) a regional policy statement:

"(iv) a proposed regional policy statement:

"(v) a plan:

"(vi) a proposed plan; and

"(ac) the principal issues that were in contention; and

"(ad) a summary of the evidence heard; and

"(ae) the main findings of fact; and".

**63 When resource consent commences**

Section 116(1A) and (1AB) of the principal Act is amended by omitting the expression "357" from both places where it appears, and substituting in each case the expression "357A".

**64 Application to carry out a restricted coastal activity**

Section 117(1) of the principal Act is amended by omitting the words "as required by section 90".

**65 Right to appeal**

Section 120(2) of the principal Act is amended by omitting the expression "section 357", and substituting the words "sections 357A, 357C, and 357D", and by omitting the word "provides", and substituting the word "provide".

**66 New section 124 substituted**

The principal Act is amended by repealing section 124, and substituting the following section:

"124 **Exercise of resource consent while applying for new consent**

"(1) Subsection (3) applies when—

"(a) a resource consent is due to expire; and

"(b) the holder of the consent applies for a new consent for the same activity; and

"(c) the application is made to the appropriate consent authority; and

"(d) the application is made at least 6 months before the expiry of the existing consent.

"(2) Subsection (3) also applies when—

"(a) a resource consent is due to expire; and

"(b) the holder of the consent applies for a new consent for the same activity; and

"(c) the application is made to the appropriate consent authority; and

“(d) the application is made in the period that—
“(i) begins 6 months before the expiry of the existing consent; and
“(ii) ends 3 months before the expiry of the existing consent; and
“(e) the authority, in its discretion, allows the holder to continue to operate.

“(3) The holder may continue to operate under the existing consent until—
“(a) a new consent is granted and all appeals are determined; or
“(b) a new consent is declined and all appeals are determined.”

**67 New sections 124A to 124C inserted**

The principal Act is amended by inserting, after section 124, the following sections:

“124A **When sections 124B and 124C apply and when they do not apply**

“(1) Sections 124B and 124C apply to an application affected by section 124 if, when the application is made, the relevant plan has not allocated any of the natural resources used for the activity.

“(2) Sections 124B and 124C also apply to an application affected by section 124 as follows:
“(a) they apply if, when the application is made,—
“(i) the relevant plan has allocated some or all of the natural resources used for the activity to the same type of activity; and
“(ii) the relevant plan does not expressly say that sections 124A to 124C do not apply; and
“(b) they apply to the extent to which the amount of the resource sought by a person described in section 124B(1)(a) and (b) is equal to or smaller than the amount of the resource that—
“(i) is allocated to the same type of activity; and
“(ii) is left after the deduction of every amount allocated to every other existing resource consent.

“(3) Sections 124B and 124C do not apply to an application affected by section 124 if, when the application is made, the relevant plan expressly says that sections 124A to 124C do not apply.

“124B **Applications by existing holders of resource consents**

“(1) This section applies when—
  “(a) a person holds an existing resource consent to undertake an activity under any of sections 12, 13, 14, and 15 using a natural resource; and
  “(b) the person makes an application affected by section 124; and
  “(c) the consent authority receives 1 or more other applications for a resource consent that—
    “(i) are to undertake an activity using some or all of the natural resource to which the existing consent relates; and
    “(ii) could not be fully exercised until the expiry of the existing consent.

“(2) The application described in subsection (1)(b) is entitled to priority over every application described in subsection (1)(c).

“(3) The consent authority must determine the application described in subsection (1)(b) before it determines any application described in subsection (1)(c).

“(4) The consent authority must determine an application described in subsection (1)(b) by applying all the relevant provisions of this Act and the following criteria:
  “(a) the efficiency of the person’s use of the resource; and
  “(b) the use of industry good practice by the person; and
  “(c) if the person has been served with an enforcement order not later cancelled under section 321, or has been convicted of an offence under section 338,—
    “(i) how many enforcement orders were served or convictions entered; and
    “(ii) how serious the enforcement orders or convictions were; and
    “(iii) how recently the enforcement orders were served or the convictions entered.

### “124C Applications by persons who are not existing holders of resource consents

“(1) This section applies when—

“(a) a person makes an application for a resource consent to undertake an activity under any of sections 12, 13, 14, and 15 using a natural resource; and

“(b) the person does not hold an existing consent for the same activity using some or all of the same natural resource; and

“(c) a consent granted as a result of the application could not be fully exercised until the expiry of the consent described in section 124B(1)(a); and

“(d) the person makes the application more than 3 months before the expiry of the consent described in section 124B(1)(a).

“(2) The consent authority must—

“(a) hold the application without processing it; and

“(b) notify the holder of the existing consent—

“(i) that the application has been received; and

“(ii) that the holder may make an application affected by section 124.

“(3) If the holder of the existing consent notifies the consent authority in writing that the holder does not propose to make an application affected by section 124, the consent authority must process and determine the application described in subsection (1)(a).

“(4) If the holder of the existing consent does not make an application affected by section 124 more than 3 months before the expiry of the consent, the consent authority must process and determine the application described in subsection (1)(a).

“(5) If the holder of the existing consent makes an application affected by section 124 more than 3 months before the expiry of the consent, the consent authority must hold the application described in subsection (1)(a) until the determination of the holder’s application and any appeal.

“(6) If the result of the determination of the holder’s application and any appeal is that the holder’s application affected by section 124 is granted, the application described in subsection (1)(a) lapses to the extent to which the use of the resource has been granted to the holder.”

**68 Lapsing of consents**

Section 125(1A) of the principal Act is amended by omitting the expression "357 and", and substituting the words "357A and 357C to".

**69 Cancellation of consent**

Section 126(3) of the principal Act is amended by omitting the expression "357 and", and substituting the words "357A and 357C to".

**70 Change or cancellation of consent condition on application by consent holder**

Section 127 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsection:

"(1) The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent, subject to the following:

"(a) the holder of a subdivision consent must apply under this section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and

"(b) no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent."

**71 Circumstances when consent conditions can be reviewed**

(1) Section 128(1)(ba) of the principal Act is amended by omitting the words "under section 43".

(2) Section 128 of the principal Act is amended by repealing subsection (2).

**72 Notice of review**

(1) Section 129(1)(d) of the principal Act is amended by adding the word "; and".

(2) Section 129(1) of the principal Act is amended by adding the following paragraph:

"(e) must advise a consent holder by whom a charge is payable under section 36(1)(cb)—

"(i) of the fact that the charge is payable; and

"(ii) of the estimated amount of the charge."

**73 New section 133A inserted**

The principal Act is amended by inserting, after section 133, the following section:

"133A **Minor corrections of resource consents**

A consent authority that grants a resource consent may, within 15 working days of the grant, issue an amended consent that corrects minor mistakes or defects in the consent."

**74 Transferability of water permits**

(1) Section 136 of the principal Act is amended by inserting, after subsection (2), the following subsection:

"(2A) A transfer under subsection (1) or subsection (2) may be for a limited period."

(2) Section 136(5) of the principal Act is amended by inserting, after the expression "subsection (2)(b)(ii),", the words "and is not for a limited period,".

**75 New section 137 substituted**

The principal Act is amended by repealing section 137, and substituting the following section:

"137 **Transferability of discharge permits**

"(1) The holder of a discharge permit may—

"(a) transfer part or all of the holder's interest in the permit; and

"(b) make the transfer for part or all of the remaining period of the permit.

"(2) The holder may make the transfer if it—

"(a) is for the site for which the permit is granted; and

"(b) is to—

"(i) another owner or occupier of the site for which the permit is granted; or

"(ii) a local authority.

"(3) The holder may make the transfer if it is for another site and is to any person, if a regional plan—

"(a) allows the transfer; or

“(b) allows the holder to apply to the consent authority that granted the permit to be allowed to make the transfer.

“(4) A regional plan may allow a transfer or a consent authority may allow a transfer if—

“(a) the transfer does not worsen the actual or potential effect of any discharges on the environment; and

“(b) the transfer does not result in any discharges that contravene a national environmental standard; and

“(c) if the discharge is to water, both sites are in the same catchment; and

“(d) if the discharge is to air and a national environmental standard applies to a discharge to air, both sites are in the same air-shed as defined in the standard; and

“(e) if the discharge is to air and paragraph (d) does not apply, both sites are in the same region.

“(5) An application under subsection (3)(b)—

“(a) must be in the prescribed form; and

“(b) must be lodged jointly by the holder of the permit and the person to whom it is proposed to transfer the interest in the permit; and

“(c) must be considered under sections 88 to 115, 120, and 121 as if—

“(i) the application for a transfer were an application for a resource consent; and

“(ii) the holder were an applicant for a resource consent.

“(6) The transfer has no effect until the consent authority that granted the permit receives written notice of it.

“(7) When a consent authority receives written notice of a transfer that is made for all of the remaining period of the permit,—

“(a) the original permit, or the part of it that relates to the part of the interest transferred, is cancelled; and

“(b) the interest, or the part of it transferred, is a new permit on the same conditions as the original permit.”

## 76 New heading substituted

The principal Act is amended by repealing the heading above section 139, and substituting the following heading:

“*Certificates of compliance or existing use*”.

**77 Consent authorities to grant certificates of compliance**

(1) Section 139(6) of the principal Act is amended by omitting the expression "20(2)", and substituting the expression "20A(2)".

(2) Section 139 of the principal Act is amended by adding the following subsection:

"(7) Sections 357A and 357C to 358 apply in relation to an application for a certificate of compliance."

**78 New section 139A inserted**

The principal Act is amended by inserting, after section 139, the following section:

"139A **Consent authorities to issue existing use certificates**

"(1) A person may request the consent authority to issue a certificate that—

"(a) describes a use of land in a particular location; and

"(b) states that the use of the land was a use of land allowed by section 10 on the date on which the authority issues the certificate; and

"(c) specifies the character, intensity, and scale of the use on the date on which the authority issues the certificate.

"(2) A person may request the consent authority to issue a certificate that—

"(a) describes an activity to which section 10A or section 20A applies; and

"(b) states that the activity was an activity allowed by section 10A or section 20A on the date on which the authority issues the certificate; and

"(c) specifies the character, intensity, and scale of the activity on the date on which the authority issues the certificate; and

"(d) describes the period for which the activity is allowed under section 10A or section 20A.

"(3) The consent authority may require the person to provide any further information that the authority considers it needs to determine whether it must issue the certificate.

"(4) The consent authority must issue a certificate under subsection (1) if it—

“(a) is satisfied that the use of the land is a use of land allowed by section 10 on the date on which the authority issues the certificate; and

“(b) receives payment of the appropriate administrative charge.

“(5) The consent authority must issue a certificate under subsection (2) if it—

“(a) is satisfied that the activity is an activity allowed by section 10A or section 20A on the date on which the authority issues the certificate; and

“(b) receives payment of the appropriate administrative charge.

“(6) A consent authority that must issue a certificate must do so within 20 working days after the latest of the following dates:

“(a) the date on which the authority receives the request; and

“(b) the date on which the authority receives all the information required under subsection (3); and

“(c) the date on which the authority receives the payment of the appropriate administrative charge.

“(7) Subsection (8) applies if a consent authority that issued a certificate becomes aware that the information that a person provided in order to obtain the certificate contained inaccuracies.

“(8) The authority must revoke the certificate, if it is satisfied that the inaccuracies were material in satisfying the authority that it must issue the certificate.

“(9) An existing use certificate is treated as an appropriate resource consent. The provisions of this Act apply to the certificate, except for sections 87AA to 119 and 123 to 150.

“(10) Sections 357A and 357C to 358 apply in relation to the issue or revocation of an existing use certificate.”

**79 New heading and new sections 140 to 141C substituted**

The principal Act is amended by repealing the heading above section 140 and sections 140 and 141, and substituting the following heading and sections:

“*Decisions on proposals of national significance*

**“140 Meaning of applicant, local authority, and matter in sections 141 to 150AA**

In sections 141 to 150AA,—

“(a) **applicant** means—

“(i) an applicant for a resource consent; or

“(ii) a person who has requested a local authority to make a change to a plan under Schedule 1; or

“(iii) a person who has requested a local authority to prepare a regional plan under Schedule 1; or

“(iv) a requiring authority; or

“(v) a heritage protection authority:

“(b) **local authority** means—

“(i) a local authority, for an application for a resource consent; or

“(ii) a local authority, for a request for a change to be made to a plan; or

“(iii) a regional council, for a request for the preparation of a regional plan; or

“(iv) a territorial authority, for a notice of requirement:

“(c) **matter** means—

“(i) an application for a resource consent; or

“(ii) a request for a change to be made to a plan under Schedule 1; or

“(iii) a request for the preparation of a regional plan under Schedule 1; or

“(iv) a notice of requirement under any of sections 168, 168A, 189, and 189A.

**“141 Application of sections 141A to 150AA to coastal marine areas**

“(1) If a matter relates wholly to a coastal marine area, sections 141A to 150AA apply to the matter with the following modifications:

“(a) references to the Minister must be read as references to the Minister of Conservation; and

“(b) references in sections 148 and 149 to a decision must be read as references to a recommendation; and

“(c) sections 148(3)(e) and (f) and 149(3)(e) and (f) must be read as one paragraph saying ‘the Minister of Conservation’; and

“(d) section 119(1)(a), (2), (6), and (7) applies to a recommendation made under section 149, as if section 119(1)(a) read ‘a recommendation on an application for a coastal permit for a restricted coastal activity or an application for a coastal permit for an activity that is not a restricted coastal activity’.

“(2) If a matter relates partly to a coastal marine area, sections 141A to 150AA apply to the matter with the following modifications:

“(a) references to the Minister must be read as references to the Minister for the Environment and the Minister of Conservation; and

“(b) sections 148(3)(e) and (f) and 149(3)(e) and (f) must be read as one paragraph saying ‘the Minister for the Environment and the Minister of Conservation’.

“141A **Minister’s power to intervene**

“(1) This section applies when the Minister—

“(a) receives a request to intervene on a matter from—

“(i) 1 or more applicants; or

“(ii) a local authority required to process and decide a matter; or

“(b) decides to apply the section.

“(2) The Minister—

“(a) must have regard to the factors described in subsection (3); and

“(b) may exercise 1 or more of the powers described in subsection (4).

“(3) The factors are—

“(a) the extent to which a matter is or is part of a proposal of national significance under section 141B(2); and

“(b) whether the local authorities that would process and decide the matter if the Minister did not call it in—

“(i) have the capacity to process and decide it; and

“(ii) consider that the exercise of any of the powers in subsection (4) would be appropriate.

“(4) The powers are—

“(a) to decide not to intervene:

“(b) to call in the matter under section 141B:

“(c) to make a submission on the matter for the Crown:

“(d) to appoint a project co-ordinator for a matter to advise the consent authority on anything relating to the matter:

“(e) if the matter involves more than 1 consent authority, to direct the consent authorities to hold a joint hearing on the matter:

“(f) if a consent authority appoints 1 or more hearings commissioners for a matter, to appoint 1 additional hearings commissioner for the matter.

“(5) If the Minister gives a direction under subsection (4)(e),—

“(a) the consent authorities to which it is given must hold the joint hearing; and

“(b) section 102 applies, with the necessary modifications, to the hearing.

“(6) If the Minister appoints a hearings commissioner under subsection (4)(f), the commissioner has the same powers, functions, and duties as a commissioner appointed by the consent authority.

### “141B **Minister’s power to call in matters that are or are part of proposals of national significance**

“(1) When the Minister considers that a matter is or is part of a proposal of national significance, the Minister may call in the matter by making 1 of the following directions:

“(a) a direction that the matter be referred for decision to a board of inquiry under sections 146 to 149; or

“(b) a direction that the matter, after the receipt of any submissions that the local authority or the Minister called for, be referred for decision to the Environment Court under section 150AA.

“(2) In deciding whether a matter is or is part of a proposal of national significance, the Minister may have regard to any relevant factor, including whether the matter—

“(a) has aroused widespread public concern or interest regarding its actual or likely effect on the environment, including the global environment; or

“(b) involves or is likely to involve significant use of natural and physical resources; or

“(c) affects or is likely to affect any structure, feature, place, or area of national significance; or

“(d) affects or is likely to affect more than one region or district; or
“(e) affects or is likely to affect or is relevant to New Zealand’s international obligations to the global environment; or
“(f) involves or is likely to involve technology, processes, or methods which are new to New Zealand and which may affect the environment; or
“(g) results or is likely to result in or contribute to significant or irreversible changes to the environment, including the global environment; or
“(h) is or is likely to be significant in terms of section 8 (Treaty of Waitangi).

“141C **Form and effect of Minister’s direction**

A direction by the Minister under section 141B(1) must—
“(a) be in writing signed by the Minister; and
“(b) state the reasons for calling the matter in; and
“(c) be served on the local authority that would have been required to process and decide the matter if the Minister had not made the direction; and
“(d) be served,—
“(i) if the matter has not yet come before the local authority, as soon as practicable after the direction is made:
“(ii) if the matter has come before the local authority and no hearing is to be held on it, before the authority notifies its decision or recommendation on the matter:
“(iii) if the matter has come before the local authority and a hearing is to be held on it, at least 5 working days before the date fixed for the commencement of the hearing.”

**80 New sections 142 to 147 substituted**

The principal Act is amended by repealing sections 142 to 147, and substituting the following sections:

“142 **Minister may determine not to proceed**

“(1) Even though a direction has been served under section 141C, the Minister may determine not to proceed with the notification or hearing of the matter, acting under section 91 as if the Minister were a consent authority.

“(2) When the Minister makes such a determination, he or she must notify the local authority and the applicant of it without delay.

“143 **Local authority’s obligations**

When a direction has been served under section 141C, the local authority must, without delay,—

“(a) provide the Minister with—

“(i) all matters to which the direction relates; and

“(ii) all information and submissions received by the local authority that relate to the matters; and

“(b) serve a copy of the direction on—

“(i) every person who is promoting the proposal; or

“(ii) every applicant; and

“(c) give notice of the direction to—

“(i) each owner and occupier (other than an applicant) of any land to which a matter relates; and

“(ii) each owner or occupier of any land adjoining any land to which a matter relates; and

“(iii) every person who has made a submission on a matter to which the direction relates.

“144 **Minister to notify direction**

“(1) The Minister must give public notice of a direction under section 141C.

“(2) Every notice for the purposes of this section must—

“(a) state the reasons for calling the matter in; and

“(b) describe the matters to which the direction applies; and

“(c) state where the matters, their accompanying information, and any further information may be viewed; and

“(d) state that submissions on the matters may be made by any person to the Minister; and

“(e) state the closing date for the receipt of submissions; and

“(f) state the address for service of the Minister and each applicant.

**“145 Minister to receive submissions**

“(1) Any person may make a submission to the Minister about any matter to which a direction under section 141C relates, whether or not the person has made a submission to a local authority on the matter.

“(2) Sections 96(2), (3), and (4) and 98 apply, with all necessary modifications, to submissions made under subsection (1), as if every reference to a consent authority were a reference to the Minister.

“(3) Every submission on a matter made to a local authority is deemed to have been made to the Minister.

“(4) The closing date for serving submissions on the Minister is 20 working days after notification of the direction under section 144.

**“146 Minister to appoint board of inquiry**

“(1) This section applies if the Minister makes a direction under section 141B(1)(a).

“(2) As soon as is reasonably practicable after receiving a matter from a local authority under section 143, the Minister must appoint a board of inquiry to consider the matter.

“(3) The Minister must—

“(a) appoint no fewer than 3, and no more than 5, members to the board; and

“(b) appoint 1 of the members as chairperson.

“(4) In appointing members, the Minister must have regard to the need for the board to have available to it, from its members, knowledge, skill, and experience relating to—

“(a) this Act; and

“(b) matters relevant to the specific matters that are likely to come before the board; and

“(c) tikanga Māori.

“(5) The Minister must appoint a current, former, or retired Environment Judge as the chairperson.

**“147 Conduct of inquiry**

“(1) The Minister must, without delay, provide a board of inquiry appointed under section 146 with—

“(a) all matters received by the Minister; and

“(b) all submissions on the matters received by the Minister; and

“(c) all other information received by the Minister and relevant to the inquiry.

“(2) Section 101(1) to (3) applies to an inquiry, with the modifications described in subsections (3) and (4) and any other necessary modifications.

“(3) Section 101(1) to (3) applies as if—

“(a) a board of inquiry were a consent authority; and

“(b) the conduct of an inquiry were the hearing of an application for a resource consent; and

“(c) the closing date for submissions on the matter called in were the closing date for submissions on an application for a resource consent.

“(4) Section 101(1) to (3) applies subject to the following:

“(a) every inquiry must be held in public at a place near to the area to which the matter relates; and

“(b) the factors to which the board of inquiry must have regard include—

“(i) any relevant factor under section 141B(2); and

“(ii) the reasons stated under section 141C(b).

“(5) A board of inquiry considering a matter that is an application for a resource consent—

“(a) has the same powers and duties as a local authority, except that the board—

“(i) may permit cross-examination; and

“(ii) must keep a full record of its hearings; and

“(b) must apply sections 37, 92, and 104 to 112 as if it were a consent authority.

“(6) A board of inquiry considering a matter that is a request for a change to be made to a regional plan or preparation of a regional plan under Schedule 1—

“(a) has the same powers as a local authority under Part 2 of Schedule 1, except that—

“(i) clauses 27 and 29(6) to (8) do not apply; and

“(ii) the board may permit cross-examination; and

“(iii) the board must keep a full record of its hearings; and

“(b) must apply sections 37 and 66 to 70B as if it were a regional council.

"(7) A board of inquiry considering a matter that is a change to a district plan under Schedule 1—

"(a) has the same powers as a local authority under Part 2 of Schedule 1, except that—

"(i) clauses 27 and 29(6) to (8) do not apply; and

"(ii) the board may permit cross-examination; and

"(iii) the board must keep a full record of its hearings; and

"(b) must apply sections 37 and 74 to 77D as if it were a territorial authority.

"(8) A board of inquiry considering a matter that is a notice of requirement under any of sections 168, 168A, 189, and 189A—

"(a) has the same powers as a territorial authority, except that the board—

"(i) may permit cross-examination; and

"(ii) must keep a full record of its hearings; and

"(b) must apply sections 37, 169 to 171, and 175 as if it were a territorial authority; and

"(c) must apply section 173 as if it were a territorial authority, except that its statement of the time within which an appeal may be lodged must say that the appeal is under section 149A; and

"(d) must consider whether to confirm the requirement, modify it, impose conditions on it, or withdraw it; and

"(e) for the purposes of paragraph (d), has the same powers as—

"(i) a requiring authority under section 172; or

"(ii) a heritage protection authority under section 192."

**81 New sections 148 to 149B inserted**

The principal Act is amended by repealing sections 148 and 149, and substituting the following sections:

**"148 Board to produce draft report**

"(1) As soon as practicable after a board of inquiry has completed an inquiry under section 147, it must—

"(a) make its draft decision; and

"(b) produce a draft written report.

“(2) The draft report—
“(a) must state the board’s draft decision; and
“(b) must give reasons for the decision; and
“(c) must include the principal issues; and
“(d) must include the findings of fact; and
“(e) may recommend that changes be made to a plan, regional policy statement, national policy statement, or New Zealand coastal policy statement in addition to any changes that may result from the implementation of the draft decision; and
“(f) may recommend that a national policy statement or a New Zealand coastal policy statement be issued or revoked, in addition to any action that may result from the implementation of the draft decision.

“(3) The board must send a copy of the draft report to—
“(a) the applicants to whom the report relates; and
“(b) the local authority that received the matter; and
“(c) any other relevant local authorities; and
“(d) the persons who made submissions; and
“(e) the Minister of Conservation, if the report relates to the functions of the Minister; and
“(f) the Minister.

“(4) The board must invite the persons to whom the draft report is sent to send their comments on any aspect of it to the board within 20 working days of the date of the invitation.

“149 **Board to produce final report**

“(1) As soon as practicable after the 20 working days referred to in section 148(4), the board of inquiry must—
“(a) consider any comments received; and
“(b) make its decision; and
“(c) produce a written report.

“(2) The report—
“(a) must state the board’s decision; and
“(b) must give reasons for the decision; and
“(c) must include the principal issues; and
“(d) must include the findings of fact; and
“(e) may recommend that changes be made to a plan, regional policy statement, national policy statement, or New Zealand coastal policy statement in addition to any

changes that may result from the implementation of the decision; and

“(f) may recommend that a national policy statement or a New Zealand coastal policy statement be issued or revoked, in addition to any action that may result from the implementation of the decision.

“(3) The board must send a copy of the report to—

“(a) the applicants to whom the report relates; and

“(b) the local authority that received the matter; and

“(c) any other relevant local authorities; and

“(d) the persons who made submissions; and

“(e) the Minister of Conservation, if the report relates to the functions of the Minister; and

“(f) the Minister.

“(4) The board must—

“(a) publish the report; and

“(b) give public notice of where and how copies of it can be obtained.

“(5) If the board decides that a plan must be changed, the relevant local authority must deal with the decision under clause 16 of Schedule 1 as if the decision were a direction of the Environment Court.

“149A **Appeals on questions of law**

“(1) A person described in section 149(3) may appeal to the High Court against a decision under section 149(1) on a question of law only.

“(2) Sections 300 to 308 apply to the appeal, subject to the following:

“(a) every reference in the sections to the Environment Court must be read as a reference to the board; and

“(b) the sections must be read with any other necessary modifications; and

“(c) the High Court Rules apply if a procedural matter is not dealt with in the sections.

“149B **Costs of process**

“(1) The Fees and Travelling Allowances Act 1951 applies to a board of inquiry appointed under section 146 as follows:

“(a) the board is a statutory board within the meaning of the Act; and

“(b) a member of the board may be paid the following, out of money appropriated by Parliament for the purpose, if the Minister so directs:

“(i) remuneration by way of fees, salary, or allowances under the Act; and

“(ii) travelling allowances and travelling expenses under the Act for time spent travelling in the service of the board; and

“(c) the Act applies to payments under paragraph (b).

“(2) A local authority may recover from an applicant the actual and reasonable costs incurred by the authority in complying with section 143.

“(3) The Minister may recover from an applicant the actual and reasonable costs incurred by the Minister in exercising the Minister’s powers under sections 140 to 150.

“(4) The Minister may recover from an applicant the actual and reasonable costs incurred by a board of inquiry in exercising its powers under sections 147 to 149.

“(5) Section 36(3A) and (4) applies to the recovery of costs under subsections (2) to (4) as if references to charges were references to the recovery of costs and, for subsections (3) and (4), references to the local authority were references to the Minister.

“(6) A person may object under section 357B to a requirement to pay costs under any of subsections (2) to (4).”

**82 New section 150 substituted**

The principal Act is amended by repealing section 150, and substituting the following section:

“150 **Residual powers of authorities**

“(1) Subsection (2) applies to the consent authority that would have decided an application for a resource consent, if the Minister had not made a direction under section 141C.

“(2) The consent authority—

“(a) has the powers in sections 127 to 132 in relation to the resource consent, but—

“(i) must not exercise any of them without first obtaining the written consent of the Minister; and
“(ii) must comply with any conditions imposed by the Minister on their exercise; and
“(b) has all other functions, duties, and powers in relation to the consent as if it had granted the consent itself.

“(3) Subsection (4) applies to the local authority that would have decided one of the following matters, if the Minister had not made a direction under section 141C:
“(a) a request for a change to be made to a plan under Schedule 1; or
“(b) a request for the preparation of a regional plan under Schedule 1; or
“(c) a notice of requirement under any of sections 168, 168A, 169, and 189A.

“(4) The local authority has all other functions, duties, and powers in relation to the request or requirement as if it had decided the request or requirement itself.”

### 83 New section 150AA inserted

The principal Act is amended by inserting, after section 150, the following section:

“150AA **Reference to Environment Court**

“(1) This section applies if the Minister makes a direction under section 141B(1)(b).

“(2) The matter is referred to the Environment Court by the applicant lodging a notice of motion and an affidavit under section 291(1).

“(3) The applicant must—
“(a) serve the notice of motion and the affidavit on—
“(i) the local authority; and
“(ii) every person who made a submission on the matter; and
“(b) serve the documents as soon as reasonably practicable after lodging them; and
“(c) tell the Registrar when the documents have been served.

“(4) Section 291(3) and (4) apply to proceedings under this section.

“(5) The Minister must supply to the Court the documents provided to the Minister under section 143(a).

“(6) The Court must—

“(a) consider the documents supplied to it under subsection (5); and

“(b) have regard to the Minister’s reasons for calling the matter in under section 141B; and

“(c) have regard to the things to which a local authority would have regard if it were deciding the matter.”

**84 Publication, etc, of Order in Council**

Section 154(b)(iv) of the principal Act is amended by omitting, after the word “authorities”, the words “and tribal runanga”.

**85 Plan may specify allocation methods**

Section 165H of the principal Act is amended by inserting, after the words “provide for”, the words “a rule in relation to”.

**86 Preferential rights of iwi**

Section 165R(2) of the principal Act is amended by adding the following paragraph:

“(e) section 118 of the Ngāti Awa Claims Settlement Act 2005.”

**87 Excluded areas**

Section 165W(2) of the principal Act is amended by omitting the words “clause 3 of Schedule 1, and that clause applies”, and substituting the words “clauses 3 to 3B of Schedule 1, and those clauses apply”.

**88 Invitation to request change to regional coastal plan or proposed regional coastal plan**

Section 165Z of the principal Act is amended by inserting, after subsection (1), the following subsection:

"(1A) A regional council may give an invitation under subsection (1) only if all the following apply:

"(a) the council has complied under section 165W with the consultation requirements of clauses 3 to 3B of Schedule 1; and

"(b) the council has decided whether or not 1 or more excluded areas should be identified in the part of the coastal marine area covered by the invitation; and

"(c) if the council has decided that 1 or more excluded areas should be identified, it has identified the areas."

### 89 Further information, public notification, submissions, and hearing

Section 169(1) of the principal Act is amended by omitting the words ", 95 to 103, and 115", and substituting the words ", 92A, 92B, and 95 to 103".

### 90 Lapsing of designations which have not been given effect to

Section 184 of the principal Act is amended by adding the following subsection:

"(3) A requiring authority may object, under section 357, to a decision not to fix a longer period for the purposes of subsection (1)."

### 91 Further information, public notification, submissions, and hearing

Section 190(1) of the principal Act is amended by inserting, after the expression "92,", the expression "92A, 92B,".

### 92 Territorial authority to issue a consent notice

(1) Section 221 of the principal Act is amended by repealing subsection (3), and substituting the following subsections:

"(3) At any time after the deposit of the survey plan,—

"(a) the owner may apply to a territorial authority to vary or cancel any condition specified in a consent notice:

"(b) the territorial authority may review any condition specified in a consent notice and vary or cancel the condition.

"(3A) Sections 88 to 121 and 127(4) to 132 apply, with all necessary modifications, in relation to an application made or review conducted under subsection (3)."

(2) Section 221(5) of the principal Act is amended by omitting the words "by any agreement", and substituting the words "after an application or review".

**93 Vesting of ownership of land in coastal marine area or bed of lake or river in the Crown or territorial authority**

Section 237A(2) of the principal Act is amended by omitting the expression "(1)(b)(i)", and substituting the expression "(1)(b)".

**94 Transfers to the Crown or regional council**

Section 237D(1) of the principal Act is amended by omitting the words "by the Minister of Conservation or the regional council, as the case may be,".

**95 New section 251A inserted**

The principal Act is amended by inserting, after section 251, the following section:

"251A **Appointment of acting Principal Environment Judge**

"(1) This section applies if—

"(a) the Principal Environment Judge is unable to exercise the duties of office because of illness or absence from New Zealand, or for any other reason; or

"(b) the office of Principal Environment Judge is vacant.

"(2) The Governor-General may appoint another Environment Judge to act in place of the Principal Environment Judge until the Principal Environment Judge resumes the duties of that office or a successor is appointed, as the case may be.

"(3) While acting in place of the Principal Environment Judge, the acting Principal Environment Judge—

"(a) may perform the functions and duties of the Principal Environment Judge; and

"(b) may for that purpose exercise all the powers of the Principal Environment Judge."

**96 Registrar and other officers**

(1) Section 260(1) of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

"(aa) may have 1 or more Deputy Registrars; and".

(2) Section 260(2) of the principal Act is amended by inserting, after the word "Registrar", the words, ", a Deputy Registrar,".

(3) Section 260 of the principal Act is amended by inserting, after subsection (2), the following subsection:

"(2A) A Deputy Registrar has all the powers, functions, duties, and immunity of the Registrar subject to the control of the Registrar."

**97 Protection from legal proceedings**

Section 261 of the principal Act is amended by adding the following subsection:

"(3) No action lies against the Registrar for anything the Registrar says or does, or omits to say or do, while acting in good faith under section 278(3), section 281(5), or section 281A."

**98 Additional dispute resolution**

The heading to section 268 of the principal Act is amended by omitting the word "**Additional**", and substituting the word "**Alternative**".

**99 Representation at proceedings**

Section 274 of the principal Act is amended by repealing subsection (4), and substituting the following subsections:

"(4) A person who becomes a party to the proceedings under this section may appear and call evidence in accordance with subsections (4A) and, if relevant, (4B).

"(4A) Evidence must not be called under subsection (4) unless it is on matters within the scope of the appeal, inquiry, or other proceeding.

"(4B) However, in the case of a person described in subsection (1)(e), evidence may only be called if it is both—

"(a) within the scope of the appeal, inquiry, or other proceeding; and

"(b) on matters arising out of that person's submissions in the previous related proceedings or on any matter on which that person could have appealed."

**100 Evidence**

Section 276 of the principal Act is amended by inserting, after subsection (1), the following subsection:

"(1A) The Court may, whether or not the parties consent,—

"(a) accept evidence that was presented at a hearing held by the consent authority under section 39:

"(b) direct how evidence is to be given to the Court."

**101 Environment Court has powers of District Court**

(1) Section 278(1) of the principal Act is amended by adding the words ", including, without limitation, the power to commission a report from an independent expert on any matter raised in an appeal, as provided for by rules 342 to 348 of the District Courts Rules 1992".

(2) Section 278 of the principal Act is amended by inserting, after subsection (1), the following subsection:

"(1A) Despite rule 346 of the District Courts Rules 1992, an independent expert from whom a report is commissioned under subsection (1) must be available to be cross-examined by any party."

(3) Section 278 of the principal Act is amended by repealing subsection (3), and substituting the following subsections:

"(3) If the Registrar is directed to do so by an Environment Judge, the Registrar may act on behalf of the Environment Court or an Environment Judge in doing any act preliminary or incidental to any proceedings, including—

"(a) the issuing of summonses requiring the attendance of witnesses; and

"(b) the making of an order for the production of documents; and

"(c) the convening of a conference under section 267.

"(4) An order made by the Registrar under subsection (3) or an application granted under section 281 must be treated as if it were an order of the Environment Court.

"(5) The Registrar may take a statutory declaration or an affidavit."

**102 Powers of Environment Commissioner sitting without Environment Judge**

Section 280 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

“(1) An Environment Commissioner or Environment Commissioners sitting without an Environment Judge may exercise such powers as may be conferred by the Principal Environment Judge either generally or in relation to a particular matter, and on such terms and conditions as the Principal Environment Judge may think fit, including a power to—

“(a) issue summonses requiring the attendance of witnesses; and

“(b) convene a conference under section 267.

“(1A) An order made by an Environment Commissioner under subsection (1) must be treated as if it were an order of the Environment Court.

“(1B) An Environment Commissioner may take a declaration or an affidavit.”

**103 Waivers and directions**

Section 281 of the principal Act is amended by adding the following subsection:

“(5) A Registrar may exercise a power in this section if conferred by the Principal Environment Judge either generally or in relation to a specific matter and, in either case, on such terms and conditions as the Principal Environment Judge thinks fit.”

**104 New sections 281A and 281B inserted**

The principal Act is amended by inserting, after section 281, the following sections:

“281A **Registrar may waive, reduce, or postpone payment of fee**

“(1) The Registrar may waive, reduce, or postpone the payment to the Court of any fee prescribed by regulations made under this Act.

“(2) The powers in subsection (1) may be exercised only if—

“(a) the person responsible for paying the fee is unable to pay the fee in whole or in part; or

“(b) in the case of proceedings concerning a matter of public interest, the proceedings are unlikely to be commenced or continued if the powers are not exercised.

“281B **Review of exercise of power by Registrar**

“(1) A person directly affected by the exercise of a power by a Registrar may apply to an Environment Judge to reconsider the matter.

“(2) The application must be by notice to the Registrar and other persons affected, within 5 working days after the Registrar’s determination or action.

“(3) The Environment Judge may confirm, modify, or reverse the decision of the Registrar.”

### 105 Reference of questions of law to High Court

(1) Section 287(2) of the principal Act is amended by omitting the words “of the High Court at Wellington”, and substituting the words “at the appropriate registry of the High Court”.

(2) Section 287(4) of the principal Act is amended by omitting the words “of the High Court at Wellington”, and substituting the words “at the appropriate registry of the High Court”.

(3) Section 287 of the principal Act is amended by adding the following subsection:

“(5) For the purposes of this section, the appropriate registry of the High Court is the office of the High Court nearest to the place where the appeal, inquiry, or other proceedings was or is being conducted.”

### 106 New section 290A inserted

The principal Act is amended by inserting, after section 290, the following section:

“290A **Environment Court to have regard to decision that is subject of appeal or inquiry**

In determining an appeal or inquiry, the Environment Court must have regard to the decision that is the subject of the appeal or inquiry.”

**107 New section 293 substituted**

The principal Act is amended by repealing section 293, and substituting the following section:

**"293 Environment Court may order change to policy statements and plans**

"(1) After hearing an appeal against, or an inquiry into, the provisions of any policy statement or plan that is before the Environment Court, the Court may direct the local authority to—

"(a) prepare changes to the policy statement or plan to address any matters identified by the Court:

"(b) consult the parties and other persons that the Court directs about the changes:

"(c) submit the changes to the Court for confirmation.

"(2) The Court—

"(a) must state its reasons for giving a direction under subsection (1); and

"(b) may give directions under subsection (1) relating to a matter that it directs to be addressed.

"(3) Subsection (4) applies if the Environment Court finds that a policy statement or plan that is before the Court departs from—

"(a) a national policy statement:

"(b) the New Zealand coastal policy statement:

"(c) a relevant regional policy statement:

"(d) a relevant regional plan:

"(e) a water conservation order.

"(4) The Environment Court may allow a departure to remain if it considers that it is of minor significance and does not affect the general intent and purpose of the policy statement or plan.

"(5) In subsections (3) and (4), **departs** and **departure** mean that a policy statement or plan—

"(a) does not give effect to a national policy statement, the New Zealand coastal policy statement, or a relevant regional policy statement; or

"(b) is inconsistent with a relevant regional plan or water conservation order."

## 108 No review of decisions unless right of appeal or reference to inquiry exercised

(1) Section 296 of the principal Act is amended by omitting the heading, and substituting the heading "**No review of certain decisions**".

(2) Section 296 of the principal Act is amended by adding, as subsection (2), the following subsection:

"(2) In relation to whether a decision made by a consent authority under section 93 or section 94 to notify or not to notify an application for a resource consent was unauthorised or otherwise invalid,—

"(a) no application for review under Part 1 of the Judicature Amendment Act 1972 may be made; and

"(b) no proceedings seeking a writ of, or in the nature of, mandamus, prohibition, or certiorari, or a declaration or injunction in relation to that decision, may be heard by the High Court."

## 109 Notice of appeal

(1) Section 300(2) of the principal Act is amended by omitting the words "at Wellington".

(2) Section 300(6) of the principal Act is amended by omitting the words "at Wellington".

## 110 Right to appear and be heard on appeal

Section 301(1)(b) of the principal Act is amended by omitting the words "at Wellington".

## 111 Parties to the appeal before the High Court

Section 302(2)(a) of the principal Act is amended by omitting the words "at Wellington".

## 112 Orders of the High Court

Section 303(1) of the principal Act is amended by omitting the words "at Wellington".

## 113 Additional appeals on points of law

Section 305(1) of the principal Act is amended by omitting the words "at Wellington".

**114 Date of hearing**

Section 307 of the principal Act is amended by omitting the words "at Wellington".

**115 Scope and effect of declaration**

(1) Section 310 of the principal Act is amended by repealing paragraph (b), and substituting the following paragraphs:

"(b) whether, contrary to section 62(3), a provision or proposed provision of a regional policy statement—

"(i) does not, or is not likely to, give effect to a provision or proposed provision of a national policy statement or New Zealand coastal policy statement; or

"(ii) is, or is likely to be, inconsistent with a water conservation order; or

"(ba) whether a provision or proposed provision of a regional plan,—

"(i) contrary to section 67(3), does not, or is not likely to, give effect to a provision or proposed provision of a national policy statement, New Zealand coastal policy statement, or regional policy statement for the region; or

"(ii) contrary to section 67(4), is, or is likely to be, inconsistent with a water conservation order, any other regional plan for the region, or a determination or reservation of the chief executive of the Ministry of Fisheries made under section 186E of the Fisheries Act 1996; or

"(bb) whether a provision or proposed provision of a district plan,—

"(i) contrary to section 75(3), does not, or is not likely to, give effect to a provision or proposed provision of a national policy statement, New Zealand coastal policy statement, or regional policy statement; or

"(ii) contrary to section 75(4), is, or is likely to be, inconsistent with a water conservation order or a regional plan for any matter specified in section 30(1); or".

(2) Section 310(g) of the principal Act is amended by adding the word "; or".

(3) Section 310 of the principal Act is amended by inserting, after paragraph (g), the following paragraph:

"(ga) whether a decision made by a consent authority under section 93 or section 94 to notify or not to notify an application for a resource consent was unauthorised or otherwise invalid; or".

(4) Section 310(h) of the principal Act is amended by omitting the words ", except for an issue as to whether any of sections 93 to 94C have been, or will be contravened".

**116 Notification of application**

(1) Section 312(1) of the principal Act is amended by omitting the words "on the Minister and".

(2) Section 140 of the Resource Management Amendment Act 1993 is consequentially repealed.

**117 Decision on application**

Section 313 of the principal Act is amended by adding, as subsections (2) and (3), the following subsections:

"(2) If the Environment Court makes a declaration under section 310(ga) (which relates to a decision made by a consent authority under section 93 or section 94 to notify or not to notify an application for a resource consent), the Court may—

"(a) make any interim order it considers necessary for the purpose of preserving the position of any party to the application under section 311 for a declaration; and

"(b) make an order setting aside a part or the whole of the decision of the consent authority and—

"(i) referring a part or the whole of the decision back to the consent authority to reconsider:

"(ii) giving the consent authority any directions it thinks just as to the reconsideration of a part or the whole of its decision:

"(c) make an order setting aside a part or the whole of a resource consent granted on the basis of a decision made by the consent authority under section 93 or section 94:

"(d) despite section 319(2), make an order to prevent the exercise of a resource consent until a decision has been

made by the consent authority in accordance with an order of the Court made under paragraph (a).

“(3) If the Environment Court gives directions under subsection (2)(b)(ii),—

“(a) the Court must give reasons for those directions; and

“(b) the consent authority must, in reconsidering its decision in accordance with the directions of the Court, have regard to the reasons of the Court.”

**118 Cancellation of abatement notice**

Section 325A(7) of the principal Act is amended by omitting the words “; but nothing in section 325(3) shall apply in relation to a notice of appeal lodged under section 325(2) (as applied by this subsection)”.

**119 Meaning of excessive noise**

Section 326(2)(a) of the principal Act is amended by omitting the words “regulations made under section 43”, and substituting the words “a national environmental standard”.

**120 Emergency works and power to take preventive or remedial action**

(1) Section 330 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) Subsection (1) applies whether or not the adverse effect or sudden event was foreseeable.”

(2) Section 330 of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) Sections 9, 12, 13, 14, and 15 do not apply to any action taken under subsection (2).”

**121 Resource consents for emergency works**

(1) Section 330A(1) of the principal Act is amended—

(a) by omitting the expression “330(1)”, and substituting the expression “330”; and

(b) by inserting, after the word “person”, the words “(other than the occupier)”.

(2) Section 330A(2) of the principal Act is amended—

(a) by omitting the expression "330(1)", and substituting the expression "330"; and
(b) by inserting, after the word "person", the words "(other than the occupier)".

**122 Mode of service of summons on master or owner of ship**

(1) Section 352A of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

"(1) If the master or owner of a ship is a defendant in a prosecution for an offence against section 338 for contravening sections 15A, 15B, or 15C, service on the defendant of a summons or other document is effected for the purposes of the Summary Proceedings Act 1957—

"(a) if it is delivered personally to the agent of the ship on behalf of the defendant or is brought to the notice of the agent if the agent refuses to accept it on behalf of the defendant; or

"(b) if it is sent to the agent of the ship by registered letter addressed to that agent on behalf of the defendant at the agent's last known or usual place of residence or the agent's place of business.

"(1A) Subsection (1) applies despite any other enactment."

(2) Section 352A(2) of the principal Act is amended by inserting, before the words "A District Court", the word "However,".

(3) Section 352A of the principal Act is amended by repealing subsection (4), and substituting the following subsection:

"(4) In this section,—

"**District Court Judge** means a District Court Judge appointed under the District Courts Act 1947

"**Justice** has the same meaning as in section 2 of the Justice of the Peace Act 1957

"**Registrar** has the same meaning as in section 2(1) of the Summary Proceedings Act 1957."

**123 Matters may be determined by arbitration**

Section 356(2)(b) of the principal Act is amended by omitting the words "section 140 (which relates to call-in)", and substituting the words "section 141C".

**124 Objections to certain decisions and requirements of consent authorities**

The principal Act is amended by repealing section 357, and substituting the following heading and sections:

"*Rights of objection*

"357 **Right of objection to local authorities against certain decisions**

"(1) There is a right of objection to the relevant local authority for a person who has made an application or given notice, as the case may be,—

"(a) to a territorial authority under section 10(2) (which relates to existing uses of land):

"(b) to a local authority under section 88(1), in respect of a determination made under section 88(3) (which relates to whether a resource consent application is complete):

"(c) to a territorial authority under section 182(1) (which relates to the refusal of a territorial authority to remove the whole or a part of a designation):

"(d) to a territorial authority under section 184(1) (which relates to the lapsing of a designation).

"(2) A submitter whose submission is struck out under section 41C(7) has a right of objection to the relevant local authority.

"(3) A person has a right of objection to a regional council in respect of a public notice given by the council under section 369(11) (which relates to the authorisation or prohibition of certain fuel or fuel-burning equipment in a clean air zone).

"357A **Right of objection to consent authority against certain decisions or requirements**

"(1) There is a right of objection to a consent authority,—

"(a) in respect of a decision of that authority, for any person who has made an application under—

"(i) section 124(2) (which relates to the exercise of a resource consent while applying for a new resource consent):

"(ii) section 125(1)(b) (which relates to the lapsing of consents):

"(iii) section 126(2)(b) (which relates to the cancellation of consents):

"(iv) section 139 (which relates to certificates of compliance):
"(v) section 139A (which relates to existing use certificates):

"(b) in respect of a request to provide further information, for a person who has been so requested by a consent authority under section 92(1):

"(c) in respect of a request to consent to the commissioning of a report, for a person who has been so requested under section 92(2)(b):

"(d) in respect of an application or a submission that a consent authority declines to process or to consider, as provided for by section 99(8), for the person who made the application or submission:

"(e) in respect of a consent authority's decision on an application or review of a kind referred to in subsection (2), for an applicant or consent holder if—
"(i) the application or review was not notified or notice of the application or review was not served (in accordance with section 93, section 94, section 127(3), or section 130); or
"(ii) the application or review was notified or served and—
"(A) no submissions were received; or
"(B) any submissions received were withdrawn.

"(2) Unless subsection (3) applies, subsection (1)(e) applies to—
"(a) an application made under section 88 for a resource consent; or
"(b) an application made under section 127 for a change or cancellation of a condition of a resource consent; or
"(c) a review of the conditions of a resource consent under sections 128 to 132; or
"(d) an application made under section 221 to vary or cancel a condition specified in a consent notice.

"(3) Subsection (2) does not apply in the case of an application for a resource consent under section 88 if, under sections 104B and 104C, the consent authority refuses to grant the resource consent, unless the application is refused by an officer of the consent authority exercising delegated authority under section 34A.

**“357B Right of objection in relation to imposition of additional charges or recovery of costs**

There is a right of objection,—

“(a) for a person required by a local authority to pay an additional charge under section 36(3) or costs under section 149B(2), to the local authority in respect of that requirement:

“(b) for a person required by the Minister to pay costs under section 149B(3) or (4), to the Minister in respect of that requirement.

**“357C Procedure for making and hearing objection under sections 357 to 357B**

“(1) An objection under section 357 or section 357A or section 357B must be made by notice in writing to the local authority, consent authority, or Minister, as the case may be, not later than 15 working days after the decision or requirement is notified to that person, or within such further time as may in any case be allowed by the consent authority, local authority, or Minister.

“(2) A notice of objection must set out the reasons for the objection.

“(3) In the case of an objection made under section 357 or section 357A, the local authority or consent authority must—

“(a) consider the objection within 20 working days; and

“(b) give at least 5 working days’ written notice to the objector of the date, time, and place for a hearing of the objection.

“(4) In the case of an objection made under section 357B, the local authority or Minister, as the case may be, must—

“(a) consider the objection as soon as reasonably practicable; and

“(b) give at least 5 working days’ written notice to the objector of the date, time, and place for a hearing of the objection.

**“357D Decision on objections made under sections 357 to 357B**

“(1) The consent authority or local authority may—

“(a) dismiss the objection; or

"(b) uphold the objection in whole or in part; or

"(c) in the case of an objection under section 357B(a), as it relates to an additional charge under section 36(3), remit the whole or any part of the additional charge over which the objection was made.

"(2) The consent authority or local authority must, within 15 working days after making its decision on the objection, give to the objector, and to every person whom the local authority considers appropriate, notice in writing of its decision on the objection and the reasons for it.

"(3) In the case of an objection made under section 357A(1)(e), if the consent authority upholds the objection in whole or in part, that decision replaces the part of the earlier decision to which the objection relates."

**125 Appeals against certain decisions or objections**

(1) Section 358(1) of the principal Act is amended by inserting, after the expression "357", the words "or section 357A or section 357B".

(2) Section 358(2) of the principal Act is amended by omitting the expression "357(7)(c)", and substituting the expression "357D(2)".

**126 Provisions deemed to be regional rules**

Section 369(13) of the principal Act is amended by omitting the word "and" in the first place where it appears, and substituting the word "to".

**127 Regulations**

Section 360(1) of the principal Act is amended by inserting, after paragraph (hh), the following paragraph:

"(hi) prescribing criteria for the exercise, in a particular hearing or class of hearing, of any of the powers specified in sections 41B and 41C:".

**128 Transitional provisions for public utilities**

Section 375(1)(a) of the principal Act is amended by omitting subparagraph (iv), and substituting the following subparagraph:

"(iv) lines as defined by section 5 of the Telecommunications Act 2001."

**129 Schedules 1 and 4 amended**

(1) Schedule 1 of the principal Act is amended in the manner indicated in Schedule 1.

(2) Schedule 4 of the principal Act is amended by repealing clause 1(h), and substituting the following paragraph:

"(h) identification of the persons affected by the proposal, the consultation undertaken, if any, and any response to the views of any person consulted:".

(3) Schedule 4 of the principal Act is amended by inserting, after clause 1, the following clause:

"1AA To avoid doubt, clause 1(h) obliges an applicant to report as to the persons identified as being affected by the proposal, but does not—

"(a) oblige the applicant to consult with any person; or

"(b) create any ground for expecting that the applicant will consult with any person.

"(4) Section 94(b) of the Resource Management Amendment Act 2003 is consequentially repealed. "

**130 New Schedule 1AA inserted**

The principal Act is amended by inserting, after Schedule 1, the Schedule 1AA set out in Schedule 2.

**131 Transitional provisions relating to provisions of principal Act**

(1) The amendments made by this Act do not apply to—

(a) a policy statement, plan, change, or variation that, on or before the commencement of this Act, has been publicly notified but has not proceeded to the stage at which no further appeal is possible; or

(b) an application for a resource consent or any other matter in relation to a resource consent that, on or before the commencement of this Act, has been made but has not proceeded to the stage at which no further appeal is possible; or

(c) a requirement for a designation or heritage order for which, at the commencement of this Act, notice has

been given under sections 168 or 168A or sections 189 or 189A of the principal Act, as the case may be, but which has not proceeded to the stage where no further appeal is possible.

(2) Subsection (1) applies subject to subsections (3) to (9).

(3) Section 39B(1) to (4) of the principal Act applies to an application made before the commencement of those provisions if, at their respective commencement dates, the hearing has not commenced.

(4) Sections 67(1), (2), (3)(a) and (b), (4), and (6) and 75(1), (2), (3)(a) and (b), (4), and (5) of the principal Act, as substituted by sections 41 and 46, apply to a proposed plan that, at the commencement of this Act, has been notified.

(5) If, at the commencement of this Act, a hearing has not commenced, the following provisions apply to an application for a resource consent made before the commencement of this Act:

- (a) section 99 of the principal Act as substituted by this Act; and
- (b) section 99A of the principal Act inserted by this Act.

(6) The following provisions of the principal Act apply to the matters described in section 140(c) of the principal Act, whether they arise before or after the commencement of this Act:

- (a) the amendment to section 29 made by this Act; and
- (b) sections 140 and 141 as substituted by this Act; and
- (c) sections 141B and 141C inserted by this Act; and
- (d) sections 142 to 149 as substituted by this Act; and
- (e) sections 149A and 149B inserted by this Act; and
- (f) section 150 as substituted by this Act; and
- (g) section 150AA inserted by this Act.

(7) Clause 8AA of Schedule 1 of the principal Act applies to a proposed policy statement or a proposed plan if, at the commencement of this Act, the hearing has not commenced.

(8) The amendments to clause 17 of Schedule 1 of the principal Act made by this Act apply to a policy statement or plan that, at the commencement of this Act, is a proposed policy statement or a proposed plan.

(9) Clause 20A of Schedule 1 of the principal Act applies to a policy statement or plan that, at the commencement of this Act, is operative.

(10) Any material incorporated into a plan by reference before the commencement of this Act is treated as if it had been incorporated under clause 30 of Schedule 1 of the principal Act, and clauses 31 to 35 of Schedule 1 of the principal Act apply accordingly, with any necessary modifications.

### 132 Transitional provisions relating to Resource Management (Waitaki Catchment) Amendment Act 2004

(1) The amendments made by this Act do not apply to a regional plan developed and approved under Part 3 of the Resource Management (Waitaki Catchment) Amendment Act 2004, until that plan has proceeded to the stage at which no further appeal is possible.

(2) Any material incorporated by reference into a regional plan developed and approved under Part 3 of the Resource Management (Waitaki Catchment) Amendment Act 2004 must be treated as if it had been incorporated under clause 30 of Schedule 1 of the principal Act, and clauses 31 to 35 of Schedule 1 of the principal Act apply accordingly, with any necessary modifications.

(3) The amendments made to the principal Act by this Act apply, as far as they are relevant, to an application for a resource consent or to a notice of a requirement to which Part 4 of the Resource Management (Waitaki Catchment) Amendment Act 2004 applies.

(4) However, if a provision of Part 4 of the Resource Management (Waitaki Catchment) Amendment Act 2004 is inconsistent with the amendments to the principal Act made by this Act, to the extent of the inconsistency the provisions of Part 4 of the Resource Management (Waitaki Catchment) Amendment Act 2004 prevail.

### 133 Transitional provision for service of notice

(1) Subsection (2) applies—

(a) to plans or proposed plans existing on 1 August 2003; and

(b) until those plans are reviewed.

(2) Despite section 94(1) of the principal Act, a consent authority is not required to serve notice of an application for a resource consent for a controlled or restricted discretionary activity if a rule in a plan or proposed plan expressly provides—
(a) that such an application does not need to be notified; or
(b) that notice of such an application does not need to be served.

### 134 Transitional provision on allocation plans

The enactment of section 30(1)(fa) and (fb) and (4) of the principal Act by this Act has no effect on any plan made before the day after the date on which this Act receives the Royal assent.

### 135 Transitional provisions relating to regulations made under provisions of principal Act

(1) Sections 43B, 43D, and 43E of the principal Act, as substituted by section 29, do not apply to national environmental standards made before the commencement of this Act.

(2) Regulations made under section 360(1)(hi) of the principal Act may provide how the powers specified in sections 41B and 41C of the principal Act apply to a hearing that has commenced before the regulations come into force.

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# Schedule 1
# Amendments to Schedule 1 of principal Act

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**Clause 3**

Omit from subclause (1)(d) the words “and tribal runanga”.

Add:

“(4) In consulting persons for the purposes of subclause (2), a local authority must undertake the consultation in accordance with section 82 of the Local Government Act 2002.”

**New clauses 3A, 3B, and 3C**

Insert, after clause 3:

“3A **Consultation in relation to policy statements**

“(1) A triennial agreement entered into under section 15(1) of the Local Government Act 2002 must include an agreement on the consultation process to be used by the affected local authorities in the course of—

“(a) preparing a proposed policy statement or a variation to a proposed policy statement; and

“(b) preparing a change to a policy statement; and

“(c) reviewing a policy statement.

“(2) If an agreement on the consultation process required by subclause (1) is not reached by the date prescribed in section 15(1) of the Local Government Act 2002,—

“(a) subclause (1) ceases to apply to that triennial agreement; and

“(b) 1 or more of the affected local authorities—

“(i) must advise the Minister and every affected local authority as soon as is reasonably practicable after the date prescribed in section 15(1) of the Local Government Act 2002; and

“(ii) may submit the matter to mediation.

“(3) If subclause (2) applies, the parts of the triennial agreement other than the part relating to the consultative process referred to in subclause (1) may be confirmed before—

“(a) an agreement on the consultative process is reached under subclauses (4) and (5)(a); or

“(b) the Minister makes a binding determination under subclause (5)(b).

“(4) Mediation must be by a mediator or a mediation process agreed to by the affected local authorities.

“(5) If the matter is not submitted to mediation or if mediation is unsuccessful, the Minister may either—

“(a) make an appointment under section 25 for the purpose of determining a consultation process to be used in the course of preparing a proposed policy statement or reviewing a policy statement; or

“(b) make a binding determination as to the consultation process that must be used.

**New clauses 3A, 3B, and 3C**—continued

"(6) The consultative process must form part of the triennial agreement, whether or not the other parts of the triennial agreement have been confirmed, in the event that—

"(a) an agreement is reached under subclause (4) or subclause (5)(a) as to a consultative process, as required by subclause (1); or

"(b) the Minister makes a binding determination under subclause (5)(b).

"(7) In this clause, **affected local authorities** means—

"(a) the regional council of a region; and

"(b) every territorial authority whose district is wholly or partly in the region of the regional council.

"3B **Consultation with iwi authorities**

For the purposes of clause 3(1)(d), a local authority is to be treated as having consulted with iwi authorities in relation to those whose details are entered in the record kept under section 35A, if the local authority—

"(a) considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and

"(b) establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and

"(c) consults with those iwi authorities; and

"(d) enables those iwi authorities to identify resource management issues of concern to them; and

"(e) indicates how those issues have been or are to be addressed.

"3C **Previous consultation under other enactments**

A local authority is not required to comply with clause 3 to the extent that any matter in a proposed policy statement or plan has been the subject of consultation with the same person, group of persons, or their representative or agent under another enactment within the 12 months preceding public notification of the proposed policy statement or plan that the matter relates to, so long as that person, group of persons, or their representative or agent were advised that the information obtained from that consultation was also to apply in relation to matters under this Act."

**Clause 4(3)**
Omit the words ", in accordance with section 168(3)".

**Clause 5**
Repeal subclause (4)(b).
Omit from subclause (4)(f), after the word "authorities", the words "and tribal runanga".

**New clause 8AA**
Insert, after clause 8A:

"8AA **Resolution of disputes**

"(1) For the purpose of clarifying or facilitating the resolution of any matter relating to a proposed policy statement or plan, a local authority may, if requested or on its own initiative, invite anyone who has made a submission on the proposed policy statement or plan to meet with the local authority or such other person as the local authority thinks appropriate.

"(2) A member of the local authority who attends a meeting under subclause (1) is not disqualified from participating in a decision made under clause 10.

"(3) The local authority may, with the consent of the parties, refer to mediation the issues raised by persons who have made submissions on the proposed plan or policy statement.

"(4) Mediation under subclause (3) must be conducted by an independent mediator.

"(5) The chairperson of the meeting must, as soon as practicable after the end of the meeting, prepare a report that—

"(a) must identify the matters that are agreed between the local authority and the submitters and those that are not; and

"(b) may identify—

"(i) the nature of the evidence that must be called at the hearing by the persons who made submissions:

"(ii) the order in which that evidence is to be heard:

"(iii) a proposed timetable for the hearing; but

"(c) does not include evidence that was presented at the meeting on a without prejudice basis.

"(6) The person who prepared the report must give the report to those persons who attended the meeting and the local authority not later than 5 working days before the hearing.

**New clause 8AA**—continued

“(7) The local authority must have regard to the report in making its decision under clause 10.”

**Clause 10**

Repeal subclause (3) and substitute:

“(3) If a local authority publicly notifies a proposed policy statement or plan under clause 5, it must, not later that 2 years after giving that notice, make its decisions under subclause (1) and publicly notify that fact.

“(4) On and from the date of the public notice given under subclause (3), the proposed plan is amended in accordance with the decisions of the local authority given under subclause (1).”

**Clause 15**

Repeal subclause (2) and substitute:

“(2) If the Environment Court, in a hearing into any provision of a proposed policy statement or plan (other than a proposed regional coastal plan), directs a local authority under section 293(1), the local authority must comply with the Court’s directions.”

Insert, in subclause (3) and paragraph (b), before the word “regional”, in both places where it appears, the word “proposed”, and insert in subclause (3)(b), after the word “direction”, the words “given under section 293(1)”.

Omit the word “applicant” from subclause (3)(a), and substitute the word “appellant”.

**Clause 16**

Add, to subclause (1), the words “under section 292”.

Add:

“(3) A local authority must make an amendment, without further formality, to its policy statement or regional plan or district plan to give effect to a direction to include specific provisions under section 55.”

**Clause 16B**

Add:

“(3) Subclause (2) does not apply to a proposed policy statement or plan approved under clause 17(1A).”

**Clause 17**

Insert, after subclause (1):

**Clause 17**—continued

"(1A) However, a local authority may approve a proposed policy statement or plan (other than a regional coastal plan) in respect of which it has initiated a variation.

"(1B) A variation to a proposed policy statement or plan approved under subclause (1A) must be treated as if it were a change to the policy statement or plan unless the variation has merged in and become part of the proposed policy statement or plan under clause 16B(1)."

Omit from subclause (2) the words ", with the consent of the Environment Court,".

**Clause 20**

Omit from subclause (4)(f), after the word "authorities", the words "and tribal runanga".

**New clause 20A**

Insert, after clause 20:

"20A **Correction of operative policy statement or plan**

A local authority may amend, without further formality, an operative policy statement or plan to correct any minor errors."

**Clause 21(3)**

Omit the word "regional".

**Clause 23**

Add:

"(4) A local authority must specify in writing its reasons for requiring further or additional information or for commissioning a report under this clause.

"(5) The person who made the request—

"(a) may decline, in writing, to provide the further or additional information or to agree to the commissioning of a report; and

"(b) may require the local authority to proceed with considering the request.

"(6) To avoid doubt, if the person who made the request declines under subclause (5) to provide the further or additional information, the local authority may at any time reject the request or decide not to approve the plan change requested, if it considers that it has insufficient information to enable it to consider or approve the request."

**Clause 27(1)**

Repeal and substitute:

"(1) A person who requests a plan change under clause 21 may appeal to the Environment Court against a decision referred to in subclause (1A) within 15 working days of receiving the decision.

"(1A) The decisions that may be appealed under subclause (1) are decisions—

"(a) to adopt or accept the request in part only under clause 25(2):

"(b) to reject the request under clause 23(6):

"(c) to deal with the request under clause 25(3):

"(d) to reject the request under clause 25(4) in whole or in part."

**New Part 3**

Insert, after Part II:

## "Part 3

## "Incorporation of documents by reference in plans and proposed plans

"30 **Incorporation of documents by reference in plans and proposed plans**

"(1) The following written material may be incorporated by reference in a plan or proposed plan:

"(a) standards, requirements, or recommended practices of international or national organisations:

"(b) standards, requirements, or recommended practices prescribed in any country or jurisdiction:

"(c) any other written material that deals with technical matters and is too large or impractical to include in, or print as part of, the plan or proposed plan.

"(2) Material may be incorporated by reference in a plan or proposed plan—

"(a) in whole or in part; and

"(b) with modifications, additions, or variations specified in the plan or proposed plan.

"(3) Material incorporated by reference in a plan or proposed plan has legal effect as part of the plan or proposed plan.

**New Part 3**—continued

"31 **Effect of amendments to, or replacement of, material incorporated by reference in plans and proposed plans**

An amendment to, or replacement of, material incorporated by reference in a plan or proposed plan has legal effect as part of the plan or proposed plan only if—

"(a) a variation that has merged in and become part of the proposed plan under Part I states that the amendment or replacement has that effect; or

"(b) an approved change made to the plan under Part I states that the amendment or replacement has that effect.

"32 **Proof of material incorporated by reference**

"(1) A copy of material incorporated by reference in a plan or proposed plan, including any amendment to, or replacement of, the material (**material**), must be—

"(a) certified as a correct copy of the material by the local authority; and

"(b) retained by the local authority.

"(2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation in the plan or proposed plan of the material.

"33 **Effect of expiry of material incorporated by reference**

Material incorporated by reference in a plan or proposed plan that expires or that is revoked or that ceases to have effect ceases to have legal effect as part of the plan or proposed plan only if—

"(a) a variation that has merged in and become part of the proposed plan under Part I states that the material ceases to have effect; or

"(b) a change to the plan made and approved under Part I states that the material ceases to have effect.

"34 **Consultation on proposal to incorporate material by reference**

"(1) This clause applies to a proposed plan, a variation of a proposed plan, or a change to a plan—

"(a) that incorporates material by reference:

**New Part 3**—continued

“(b) that states that an amendment to, or replacement of, material incorporated by reference in the proposed plan or plan has legal effect as part of the plan.

“(2) Before a local authority publicly notifies a proposed plan, a variation of a proposed plan, or a change to a plan under clause 5, the local authority must—

“(a) make copies of the material proposed to be incorporated by reference or the proposed amendment to, or replacement of, material incorporated by reference (**proposed material**) available for inspection during working hours for a reasonable period at the offices of the local authority; and

“(b) make copies of the proposed material available for purchase in accordance with section 36 at the offices of the local authority; and

“(c) give public notice stating that—

“(i) the proposed material is available for inspection during working hours, the place at which it can be inspected, and the period during which it can be inspected; and

“(ii) copies of the proposed material can be purchased and the place at which they can be purchased; and

“(iii) if copies of the material are available under subclause (3), details of how and where it may be obtained or accessed; and

“(d) allow a reasonable opportunity for persons to comment on the proposal to incorporate the proposed material by reference; and

“(e) consider any comments they make.

“(3) In addition to the requirements under subclause (2), the local authority may make copies of the proposed material available in any way that the chief executive of the local authority considers appropriate in the circumstances (for example, on an Internet website maintained by or on behalf of the local authority).

“(4) The reference in subclause (2) or subclause (3) to the proposed material includes, if the material is not in an official New Zealand language, an accurate translation in an official New Zealand language of the material.

**New Part 3**—continued

“(5) A failure to comply with this clause does not invalidate a plan or proposed plan that incorporates material by reference.

**“35 Access to material incorporated by reference**

“(1) The local authority—

“(a) must make the material referred to in subclause (2) (**material**) available for inspection during working hours at the offices of the local authority; and

“(b) must make copies of the material available for purchase in accordance with section 36 at the offices of the local authority; and

“(c) may make copies of the material available in any other way that the chief executive of the local authority considers appropriate in the circumstances (for example, on an Internet website maintained by or on behalf of the local authority); and

“(d) must give public notice stating that—

“(i) the material is incorporated in the plan or proposed plan; and

“(ii) the material is available for inspection during working hours free of charge and the place at which it can be inspected; and

“(iii) copies of the material can be purchased and the place at which they can be purchased; and

“(iv) if copies of the material are available under paragraph (c), details of how and where it may be obtained or accessed.

“(2) The material referred to in subclause (1) is—

“(a) material incorporated by reference in a plan or proposed plan:

“(b) any amendment to, or replacement of, that material that is incorporated in the plan or proposed plan or the material referred to in paragraph (a) with the amendments or replacement material incorporated:

“(c) if the material referred to in paragraph (a) or paragraph (b) is not in an official New Zealand language, as well as the material itself, an accurate translation in an official New Zealand language of the material.”

# Schedule 2
s 130

# New Schedule 1AA inserted in principal Act

## Schedule 1AA
s 43G

## Incorporation of documents by reference in national environmental standards, national policy statements, and New Zealand coastal policy statements

### 1 Incorporation of documents by reference

(1) The following written material may be incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement:

(a) standards, requirements, or recommended practices of international or national organisations:

(b) standards, requirements, or recommended practices prescribed in any country or jurisdiction:

(c) any other written material that deals with technical matters and is too large or impractical to include in, or print as part of, the national environmental standard, national policy statement, or New Zealand coastal policy statement.

(2) Material may be incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement—

(a) in whole or in part; and

(b) with modifications, additions, or variations specified in the standard or statement.

(3) Material incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement has legal effect as part of the standard or statement.

### 2 Effect of amendments to, or replacement of, material incorporated by reference

(1) An amendment to, or replacement of, material incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement has legal effect as part of the standard or statement only if the Minister publishes a notice under subclause (2).

(2) The Minister may publish a notice in the *Gazette* that—

**Schedule 1AA**—continued

(a) states that subclause (1) applies to the national environmental standard, national policy statement, or New Zealand coastal policy statement; and
(b) specifies the date on which subclause (1) applies to the standard or statement.

(3) Subclause (1) does not apply if the national environmental standard, national policy statement, or New Zealand coastal policy statement expressly says that it does not apply.

### 3 Proof of material incorporated by reference

(1) A copy of material incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement including any amendment to, or replacement of, the material (**material**), must be—
(a) certified as a correct copy of the material by the chief executive of the Ministry for the Environment; and
(b) retained by the Ministry.

(2) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation of the material in the national environmental standard, national policy statement, or New Zealand coastal policy statement.

### 4 Effect of expiry of material incorporated by reference

(1) Material incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement that expires or that is revoked or that ceases to have effect ceases to have legal effect as part of the standard or statement only if the Minister publishes a notice under subclause (2).

(2) The Minister may publish a notice in the *Gazette* that—
(a) states that subclause (1) applies to the national environmental standard, national policy statement, or New Zealand coastal policy statement; and
(b) specifies the date on which subclause (1) applies to the standard or statement.

(3) Subclause (1) does not apply if the national environmental standard, national policy statement, or New Zealand coastal policy statement expressly says that it does not apply.

## Schedule 1AA—continued

**5 Access to material incorporated by reference**

(1) The Ministry for the Environment—
   (a) must make the material referred to in subclause (2) (**material**) available for inspection during working hours at the offices of the Ministry; and
   (b) must make copies of the material available for purchase at the offices of the Ministry; and
   (c) may make copies of the material available in any other way that the chief executive of the Ministry considers appropriate in the circumstances (for example, on an Internet website maintained by the Ministry); and
   (d) must give public notice stating that—
      (i) the material is incorporated in the national environmental standard, national policy statement, or New Zealand coastal policy statement; and
      (ii) the material is available for inspection during working hours free of charge and the place at which it can be inspected; and
      (iii) copies of the material can be purchased and the place at which they can be purchased; and
      (iv) if copies of the material are available under paragraph (c), details of how and where it may be obtained or accessed.

(2) The material referred to in subclause (1) is—
   (a) material incorporated by reference in a national environmental standard, national policy statement, or New Zealand coastal policy statement:
   (b) any amendment to, or replacement of, that material that is incorporated in the standard or statement or the material referred to in paragraph (a) with the amendments or replacement material incorporated:
   (c) if the material referred to in paragraph (a) or paragraph (b) is not in an official New Zealand language, as well as the material itself, an accurate translation in an official New Zealand language of the material.

## Legislative history

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| 2 August 2005 | Divided from Resource Management and Electricity Legislation Amendment Bill (Bill 237–2), third reading |

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