

# **Local Government (Water Services) Bill**

Government Bill

As reported from the Finance and Expenditure Committee

## **Commentary**

### **Recommendation**

The Finance and Expenditure Committee has examined the Local Government (Water Services) Bill and recommends by majority that it be passed. We also recommend all amendments by majority.

### **Introduction**

This is the third bill that the Government has produced as part of its “Local Water Done Well” policy programme. The first bill repealed the previous Government’s water services legislation. The second bill established the preliminary arrangements for the new water services system. This third bill would establish the enduring settings for the water services system.

This bill is an omnibus bill, and provides for:

- arrangements for the new water services delivery system
- a new economic regulation and consumer protection regime for water services
- changes to the regulatory framework for water quality and to the water services regulator.

The Government intends to divide the bill at the committee of the whole House stage. Parts 1 to 4, Part 6, and Schedules 1 to 4 would continue as the Local Government (Water Services) Bill. Part 5 and Schedules 5 to 12 would become the Local Government (Water Services Repeals and Amendments) Bill (or a similar name).

We include in Appendix B of this commentary a list of the key actors in the water services delivery system, which we encourage readers to refer to.

## Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of good legislative design. We have considered several matters, which we are satisfied have been addressed. For more information, refer to the advice we received from the Department of Internal Affairs and the Ministry of Business, Innovation and Employment.

## Proposed amendments

We propose extensive amendments to the bill: more than 360. Most are technical in nature, reflecting the technical nature of the bill and the submissions we received. We do not discuss every proposed amendment in this commentary, but we discuss the most important, grouped under the following themes:

- Enabling growth
- Accountability and engagement
- Facilitating transfers to new arrangements
- Improving regulatory efficiency
- Stormwater
- Streamlining processes for regulatory plans and bylaws
- Financial principles and economic regulation
- Watercare
- Māori interests
- Requirement to provide information and Officers of Parliament
- Crown lending to the Local Government Funding Agency
- Offences related to specified serious risk.

We think this thematic structure will make the commentary more accessible and useful than if it had been structured clause by clause (as is common). We identify under each thematic heading the relevant parts of the bill. We encourage readers who want to see a clause-by-clause list of our proposed amendments to refer to the document we received titled “Department of Internal Affairs and the Ministry of Business, Innovation and Employment (List and location of all recommended amendments to the bill)”.

## Enabling growth

### Objectives of water service providers

*Relevant parts of the bill: Part 2, subpart 1, clause 15*

Clause 15 sets out what the objectives of water service providers would be. The objectives include providing water services that are safe, reliable, cost-effective, and financially sustainable. We agree with submitters that a further objective should be to

support housing growth and urban development. We also think there should be an objective to use water resources efficiently when providing water supply services. We recommend amending clause 15 accordingly.

We recommend removing the objective to provide water services that do not have adverse effects on the environment (clause 15(1)(a)(ii)). The environmental effects of providing water services will not be managed or regulated under this bill once enacted. Instead, the effects will be regulated under the Resource Management Act 1991 (and its replacement). Therefore, an environmentally focused objective would be out of place in this bill, divorced from the operative provisions in other Acts that actually regulate environmental effects.

### **Development contributions**

*Relevant parts of the bill: Part 3, subpart 2, clauses 76 to 109*

A development contribution is a charge imposed on a new development. (A further development contribution could be charged to reflect an increase in the scale or intensity of a development since a previous contribution was required). The money goes towards any infrastructure costs associated with the development. The bill would enable water organisations to require development contributions from developers, which would go towards the capital costs of meeting new or additional demand for water services infrastructure.

The bill's approach to development contributions is intended to be an interim measure while the Government works on a new development levy regime under its "Going for Housing Growth" work programme. It is intended that Part 3 subpart 2 of the bill would be repealed by new legislation that provides for the new development levy regime, and that water organisations would be enabled to charge development levies.

In the meantime, there needs to be a smooth transition from the status quo (where councils charge development contributions) to water organisations charging development contributions under the bill. To this end, we recommend several amendments to the bill's transitional provisions, including:

- enabling asset-owning water organisations to adopt the relevant aspects of councils' policies as their first development contributions policy (with a review of those policies to occur later) (new clause 85A)
- ensuring that water organisations can calculate development contributions based on previous capital expenditure incurred by the council (new clause 87(4)(b))
- ensuring that the relevant unspent development contributions are transferred to a water organisation (new clause 93A).

## Requirements to provide information about network capacity

*Relevant parts of the bill: Part 3, subpart 3, clause 114*

Clause 114 would require every water service provider to prepare and publish a map of each of its water services networks, update the map as soon as practicable after any changes, and publish the map online.

Auckland Council has an online map and portal that show specific capacity constraints on water services networks. This helps developers to understand the likelihood of connection approvals. The council submitted that the bill should similarly require the publication of information about the current capacity and utilisation of public pipes and asset details. We agree, and recommend inserting clause 114A.

## Accountability and engagement

*Relevant parts of the bill: Part 4, all subparts, clauses 179 to 214*

The bill proposes a planning and accountability framework that would apply to all water service providers instead of certain provisions of the Local Government Act 2002. The proposed framework involves three core documents:

- a statement of expectations (issued to a water organisation by its shareholders and setting out strategic and performance expectations)
- a water services strategy (the primary strategic, financial, and infrastructure planning and accountability document for all water service providers)
- a water services annual report (prepared by water service providers to provide transparency about their performance over the preceding financial year).

## Shareholder role and influence in water organisations

*Relevant parts of the bill: Part 2, and Part 4, subpart 1*

Clause 184 would require the shareholders of a water organisation to prepare a statement of expectations, setting out the shareholders' expectations of the water organisation for a period of at least 10 consecutive financial years. Clause 186 would require a water organisation to give effect to the statement of expectations.

We received submissions expressing concern that the statement of expectations would give shareholders too much power and control over a water organisation. These submitters commented on the differences between Part 4 of the bill and the provisions of the Local Government Act 2002 relating to council-controlled organisations. We note that these differences are deliberate and reflect that water organisations are not intended to be like other council-controlled organisations. The accountability framework proposed by the bill is intended to be flexible, accommodating the different approaches different territorial authorities will want to take, while also providing a consistent set of requirements.

Nonetheless, we recommend some amendments to address concerns raised by submitters and to ensure that the accountability framework operates effectively.

### **Statement of expectations**

*Relevant parts of the bill: Part 4, subpart 1, clauses 184 to 189*

We agree with submissions that strategic priorities should be set by the board of the water organisation in the water services strategy, rather than by shareholders in the statement of expectations. Therefore, we recommend deleting clause 184(3)(b). We also recommend amending clause 183(3)(c) so that part of the purpose of the statement of expectations is to inform and guide the water organisation board to set the priorities and strategic direction in its water services strategy.

Clause 188 would require a statement of expectations to be consistent with (among other things) the water organisation's foundation documents (the constitution and all rules and other documents that establish or govern the organisation). We recommend amending clause 188 so that, unless provided for in the foundation documents of a water organisation, a statement of performance expectations cannot include directions:

- in relation to the performance or exercise of a duty, function, or power under this bill
- to require the performance or non-performance of a particular act, or the bringing about of a particular result, in respect of a particular person or persons.

This amendment would help to minimise the risk that shareholders could seek to influence operational matters through the statement of expectations.

Clause 189 sets the process requirements for the statement of expectations. We recommend amending it to require that the process must include an opportunity for the board of the water organisation to review and comment on the draft statement, and for the shareholders to consider any comments when finalising the statement.

### **Process for making water services strategy**

*Relevant parts of the bill: Part 4, subpart 1, clauses 190 to 199*

Clause 196 sets out the process for a water organisation to make its water services strategy. Under this clause, the shareholders of a water organisation would be required to determine the nature of their involvement in preparing and finalising the water services strategy. Clause 196(2) provides for two possible approaches:

- shareholders can provide comments on the draft strategy, require amendments, and approve the final strategy
- shareholders can provide comments on the draft strategy, but do not have the power to require changes or approve the final strategy.

Clause 196 would not require shareholders to take a particular approach. Shareholders would be able to choose. (They would presumably weigh up the implications associated with the ability to approve the final strategy, such as how it could affect the

financial separation of a water organisation.) This discretion reflects that there will be different arrangements for water service delivery and different models of water organisations.

Irrespective of which option shareholders choose, we consider that there should be more transparency about shareholder involvement in water services strategies. We recommend inserting clause 9 into Schedule 3 to require the final water services strategy to include a summary of the comments provided by shareholders, and an explanation of whether shareholders required changes and approved the final strategy.

### **Content of water services annual report**

*Relevant parts of the bill: Part 4, subpart 2, clauses 203 to 207 and Schedule 4*

Schedule 4 sets out the material that would need to be included in a water services annual report. We recommend amending Schedule 4, clause 3(2) so that an annual report of a water organisation would need to describe how the organisation has performed in relation to any performance indicators that are used by shareholders to monitor the organisation and that are included in the statement of expectations. Schedule 3, clause 6(2)(d) of the bill as introduced would require this information to be included in water services strategies. However, we agree with the Auditor-General's submission that it is more appropriate to include that information in a reporting document, rather than a planning document. We recommend deleting Schedule 3, clause 6(2)(d).

### **Significance and engagement policies**

*Relevant parts of the bill: Part 2, subpart 1, clauses 21 to 23*

Clause 21 would enable water service providers to enter into contracts with each other and with private sector third parties. (Councils and council-controlled organisations can already do this under the Local Government Act 2002.) Clause 23 would impose certain obligations on water service providers in respect of any significant contracts. These include a requirement to adopt a policy for determining whether a contract is significant, and to include the policy in councils' wider significance and engagement policies.<sup>1</sup>

We agree with submissions that the policy for determining whether something is considered significant should apply to all relevant matters in the bill, not just contracts. We recommend amending clause 23 and inserting clauses 30C to 30F to require water organisations to prepare and adopt significance and engagement policies of their own. These amendments are based on section 76AA of the Local Government Act, but

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<sup>1</sup> Section 76AA of the Local Government Act requires every local authority to adopt a policy that sets out its general approach to determining the significance of proposals and decisions in relation to issues, assets, and other matters. This policy is known as a significance and engagement policy.

with appropriate modifications for water organisations and their shareholders. We also recommend amendments to the Local Government Act to ensure there is no unnecessary duplication between significance and engagement policies set by councils and those set by water organisations.

### **Consultation on water services strategies**

*Relevant parts of the bill: Part 4, subpart 1, clause 196*

The introduction of significance and engagement policies for water organisations should also help to address submissions that raised concerns about the proposed approach to consultation on water services strategies. Submitters noted that the bill would require water organisations to consult shareholders, but not the public, about the strategies. We recommend amending clause 196 so that significance and engagement policies for water organisations would apply, as relevant, to draft water services strategies. Under new clauses 30C and 30D, these policies would be the means by which each water organisation would set out all matters that are necessary for the water organisation to make its strategy, including:

- how and when communities can be expected to be engaged in decisions about particular proposals
- the types of proposals that would be subject to consultation or engagement
- how the water organisation would consider community views.

### **Facilitating transfers to new arrangements**

#### **Transfer agreements, clause 8**

*Relevant parts of the bill: Part 2, subpart 1, clause 8*

Under clause 8 of the bill, a territorial authority would be responsible for ensuring that water services are provided in its district. However, a territorial authority would be able to transfer responsibility for water services to a water organisation by entering into a transfer agreement. We recommend several amendments to provisions in the bill relating to transfer agreements, to improve workability and clarity.

We recommend amending clause 8 so that a territorial authority may discharge its responsibility for providing water services by entering into a transfer agreement with a water organisation. We also recommend inserting clause 11(8) so that a territorial authority would be able to transfer any responsibilities under this bill to a water organisation, except:

- the power to make bylaws and regulatory plans
- its role as a shareholder in a water organisation
- the power to delegate a responsibility, function, duty, or power under the Local Government Act.

We acknowledge submissions that clause 8 could be misinterpreted to mean that a territorial authority is obligated to provide water services to every single person in its

district. It is not the intent to impose obligations on territorial authorities for universal coverage or individual water connections. We recommend inserting clause 8(3) to make clear that no person is entitled to require a territorial authority or water organisation to provide a water service to that person.

### **Transfer agreements, clause 11**

*Relevant parts of the bill: Part 2, subpart 1, clause 11A*

To ensure there are no gaps in the process for transfer agreements, we recommend inserting clause 11A so that:

- before adopting a transfer agreement, a territorial authority must discuss with the board of the water organisation (or another appropriate representative) and agree on the significant matters that would be contained in the agreement
- in situations where a water organisation has been established by, or will have shareholders from, more than one territorial authority, the group of territorial authorities must work collectively to:
  - discuss and reach agreement on the significant matters proposed to be contained in each of their transfer agreements
  - agree a common date on which all of their transfer agreements will take effect (which may be on or after the date on which the final transfer agreement is entered into)
  - prepare the other foundation documents for the water organisation, such as a constitution and shareholder agreement
- a territorial authority must ensure there is a process for:
  - resolving any disputes that may arise with the water organisation and any other territorial authorities that are involved about the proposed content of the transfer agreement
  - confirming the final transfer agreement with a representative of the water organisation, and with any other territorial authorities
- transfer agreements could be prepared and adopted sequentially by different territorial authorities, and come into effect on the same date (if agreed by all of the territorial authorities)
- it is clear that there may be more than one transfer agreement.

### **Content of transfer agreements**

*Relevant parts of the bill: Schedule 2*

Schedule 2 of the bill sets out the content that would need to be included in any transfer agreements. We recommend several improvements.

Schedule 2, clause 1 should be amended so transfer agreements specify the geographic boundaries of the service area that would be subject to the agreement. The

default position would be for the area to be the same as the territorial authority's district, but it would be helpful for the agreement to confirm this or any variations.

Schedule 2, clause 3 would require transfer agreements to specify the liabilities that would be transferred in relation to the relevant water services. We recommend expanding the requirements to make it clear which liabilities relate to each water service, and whether there are any liabilities that are not specifically related to a particular service and why these are being transferred.

We also recommend amending Schedule 2, clause 3 so transfer agreements would need to describe the stormwater services zone and responsibilities relating to that zone that would be transferred. This would align with other changes we recommend relating to stormwater later in this commentary.

Schedule 2, clause 6 relates to charging and revenue collection for the water services that would be transferred. Schedule 2, clause 6(b)(iii) would require transfer agreements to confirm that the territorial authority will provide the water organisation with sufficient revenue each financial year to enable the organisation to undertake the capital and operating investment programme in the organisation's water services strategy. We recommend amending Schedule 2, clause 6(b)(iii) so that the revenue would also need to be sufficient for the water organisation to be compliant with regulations and financially sustainable.

We also recommend amending Schedule 2, clause 6 to clarify when a territorial authority would be acting as a collection agent for a water organisation. There needs to be a clear distinction between when a territorial authority is simply acting as a collection agent, and when it is doing more than this such as making decisions about the amount of revenue to be collected.

### **Content of transfer agreements: responsible decision makers for revenue and charging**

*Relevant parts of the bill: Schedule 2, clause 7*

Schedule 2, clause 7 would require transfer agreements to specify whether the territorial authority or the board of the water organisation will be responsible for making final decisions on:

- the water organisation's capital expenditure and operating expenditure for the water services it provides
- the water organisation's level of charges and revenue recovery for the water services.

We received submissions advocating that decisions about capital and operating expenditure, and revenue and charging, should be made by the board of the water organisation, and not made or influenced by territorial authority shareholders. We sympathise with this position, as it would be the sensible approach in most cases. However, mandating that these decisions cannot be made by shareholders would be inconsistent with the general flexibility intended in the bill (as discussed earlier in this commentary in the section about the role and influence of shareholders).

We recommend inserting Schedule 2, clause 7(2) so that if a territorial authority is the one to make final decisions about capital and operating expenditure and revenue and charging, it is required to explain:

- the implications for the territorial authority and the water organisation
- the implications for the process of preparing the water organisation’s water services strategy and water services annual budget
- how the territorial authority will notify the water organisation of its final decisions
- how the territorial authority will ensure that its process for making the final decisions is transparent to its communities.

This explanation should be in the transfer agreement, or the water organisation’s foundation documents.

This change would add transparency and should prompt territorial authorities to consider the potential implications of retaining decision-making responsibilities about the matters in Schedule 2, clause 7.

### **Application of decision-making and consultation provisions**

*Relevant parts of the bill: Part 2, subpart 1, clauses 25 to 30*

Clauses 25 to 30 relate to a territorial authority that proposes to change the provision of water services in its district (a “change proposal”), such as by establishing a water organisation. The territorial authority would be required to identify and assess a range of options and consult on those options.

We received submissions from councils raising concerns about the differences and interaction between clauses 25 to 30 of the bill and existing processes under the Local Government (Water Services Preliminary Arrangements) Act 2024. For example, that Act provides for a process for establishing a water services council-controlled organisation that involves consulting the public on only two options. This bill would require consulting on three options.

To clarify matters, we recommend amending clause 25 and inserting clause 25A so there is a clear cut-off point:

- The decision-making and consultation requirements under the Preliminary Arrangements Act should apply to decision making and consultation done in relation to a water services delivery plan (a key requirement of that Act).
- Clauses 25 to 29 of this bill should apply to any decision making and consultation in relation to a change proposal that may occur after a water services delivery plan has been accepted under the Preliminary Arrangements Act, including an amendment to a plan.

We also recommend amending the crossheading above clause 25 to make it clear that clauses 25 to 29 are only about a council’s decision-making and consultation processes in relation to specific changes to delivery arrangements for water services (and not more broadly).

## **Council-controlled organisations deemed to be water organisations**

*Relevant parts of the bill: Schedule 1, clause 8*

Schedule 1, clause 8 would apply to a council-controlled organisation that was providing water services immediately before the commencement of the bill (or had been established for this purpose) and that intends to continue providing water services after that date. A council-controlled organisation in that situation would be deemed to be a water organisation at the point the bill commenced, and for six months after. Within that six-month period, the council-controlled organisation would have to undergo changes to comply with the requirements in the bill that apply to water organisations. These requirements relate to ownership, role, board directors, and being a company.

Schedule 1, clause 8 as introduced implies that a council-controlled organisation would need to undergo changes to meet the requirements of water organisations even if it is already designed to fulfil those requirements. To address this, we recommend amending Schedule 1, clause 8(3) so it is not about undergoing changes. Instead, it should require the board of the water organisation to adopt a document that confirms it complies with the requirements in clauses 8(3)(a) to (d).

We acknowledge that it is uncertain what will happen with Wellington Water Limited, including if and when a replacement will be set up. We consider it reasonable to require Wellington Water to adopt a document as proposed above, regardless of what changes may occur.

In the bill as introduced, Schedule 1, clause 8 is silent about transfer agreements in instances where existing council-controlled organisations would automatically become water organisations. However, several other provisions in the bill are predicated on there being transfer agreements. Transfer agreements would provide transparency and certainty about both what is being transferred and what is being retained by the territorial authority, and the rationale for doing so. Therefore, they are equally important in instances where an existing council-controlled organisation would become a water organisation.

We recommend amending Schedule 1, clause 8 to account for transfer agreements in scenarios where there is an existing council-controlled organisation. We recommend requiring the following to occur within three years after the commencement of the bill:

- A territorial authority (or authorities) that establishes a water organisation must enter into a transfer agreement to document existing arrangements and any modifications made since the council-controlled organisation became a water organisation.
- If the water organisation that was a council-controlled organisation is disestablished and replaced by one or more new water organisations, a transfer agreement must be entered into for each new organisation.

As described later in this commentary, the requirements in Schedule 1, clause 8 would not apply to an Auckland water organisation (Watercare).

## **Improving regulatory efficiency**

### **Exemptions from some drinking water requirements**

*Relevant parts of the bill: Part 5, subpart 9, clause 313*

Clause 313 would amend the Water Services Act 2021 to enable the Water Services Authority to grant exemptions from certain requirements under that Act. We recommend inserting clause 313(4) so that an exemption could have effect for up to 15 years, rather than 5 years as currently provided for in the Act.

This amendment would acknowledge that applying for exemptions every 5 years can be costly for water suppliers, while taking into account the potential for risks to public health. We consider that a 30-year exemption, as suggested by one submitter, would be too long. Our view is that suppliers should be required to reapply for an exemption at least every 15 years to ensure that they are responding to any changes over this period, such as emerging health risks or changes in the population using the water supply.

### **National Engineering Design Standards**

*Relevant parts of the bill: Part 5, subpart 9, Clause 319*

Clause 319 would insert subpart 1AA into Part 3 of the Water Services Act. This new subpart would provide for the development and ongoing review of National Engineering Design Standards. The intent behind the standards is to provide for more consistency in the design, construction, and operational performance of water services infrastructure. Currently, territorial and unitary authorities develop their own codes of practice for these matters and have widely varying requirements. Standardisation would support operational consistency and scale efficiencies in the design and procurement of infrastructure.

The bill as introduced proposed a product approval regime as part of the National Engineering Design Standards. The bill would have required water services providers to certify that “approved products” would comply with the standards in specified situations.

We recommend removing the product approval regime from the bill. New Zealand has no established infrastructure for product testing and certification. Developing this infrastructure would be expensive and time consuming, and any delays in certifying products could create supply-side constraints. The product approval regime could impose barriers to competition and innovation, as well as increase costs.

We recommend amending the bill to replace the product approval regime with mandatory performance-based (rather than prescriptive) requirements, accompanied by national codes of practice as a means of meeting those requirements. We also recommend the introduction of national codes of practice by inserting clauses 97HA to

97HC into the Water Services Act. These codes should provide nationally consistent specifications for the design and operation of water services infrastructure that, if followed, would constitute compliance with the National Engineering Design Standards. We recommend amending the bill to enable the Water Services Authority to issue a warning in relation to a particular product or method that, if used in particular circumstances, would result in non-compliance with the standards.

## Stormwater

### Definitions of stormwater network, overland flow paths, and watercourses

*Relevant parts of the bill: Part 1, clause 4*

Clause 4 of the bill as introduced defines “stormwater network” to mean the infrastructure that is used to provide a stormwater service, and that is owned by, or operated by, for, or on behalf of a water service provider. The definition clarifies that the stormwater network includes overland flow paths, green water services infrastructure, and watercourses, recognising that they have a critical role to support the conveyance capacity for the stormwater network.

We recommend amending this definition to refer to processes used to provide a stormwater service, in addition to the infrastructure. We also recommend replacing the words “is part of, or related to” with “receives stormwater from or takes stormwater to” to clarify what overland flow paths and water courses are included in the network.

Clause 4 defines “overland flow path” to mean “any flow path taken by stormwater on the surface of land”. We agree with submissions that this definition could be too broad and may not capture overland flow paths that are linked to reticulated stormwater network infrastructure. We recommend amending the definition to:

- a low point in terrain (other than a watercourse)
  - where surface runoff flows; and
  - that receives water from an upstream contributing catchment larger than 4,000 m<sup>2</sup>
- any other location identified as an overland flow path in a stormwater network risk management plan.

Clause 4 defines “watercourse” twice. We agree with submitters that there should only be one definition of watercourse and recommend that it include “a river, stream, passage, and channel on or under the ground, whether natural or not, along which water flows continuously and that receives stormwater from, or discharges stormwater to, a stormwater network.” The reference to continuous flow is a key aspect of the difference between a watercourse and an overland flow path.

## Stormwater charging and services zones

*Relevant parts of the bill: Part 1, clause 4; Part 3, subpart 1, clauses 60 and 61; Schedule 2 and Schedule 3*

Part 3, subpart 1 would enable water organisations to directly assess, set, and collect charges for water services, including stormwater services. Organisations would be able to set charges for:

- the initial connection to the water service
- a contribution to the capital costs of infrastructure to service additional or increased demand on a water service
- serviceability (whether a property is within 100 metres of a water supply or wastewater network and is not, but could be, connected to that network)
- meeting the organisation's costs.

Clause 61 would impose additional requirements on water organisations when they set stormwater charges. Clause 61(2) would require the water organisation to determine the recoverable cost of stormwater services. This would be done on the basis of whether a property is:

- served by a stormwater network, or within 100 metres of a stormwater network that could serve the property if connected (clause 61(2)(a))
- located within the specified geographical zone of the organisation's service area (clause 61(2)(b)).

We recommend replacing clause 61(2)(a). As introduced, this paragraph may not capture informal stormwater connections. It could also mean that charges could not be set in urban areas where a stormwater network primarily consists of overland flow paths and water courses. Replacing clause 61(2)(a) would mean that water organisations would determine the recoverable cost of stormwater services simply on the basis of whether the property is within the organisation's service area.

We also recommend amending clause 61(2)(b) to replace the term "geographic zone" with "stormwater service zone". We recommend inserting into clause 4 a definition of stormwater service zone to mean "a geographic area (comprising both 1 or more urban areas and land adjacent to 1 or more of those urban areas) within a territorial authority's district that provides stormwater services to, or receives stormwater services from, the stormwater network."

These changes would mean that water organisations could only recover stormwater charges for services that are located in a stormwater service zone.

Consequential to the definition of "stormwater service zone", we recommend the following amendments:

- Schedule 2 of the bill sets out the content that would need to be included in any transfer agreements. We recommend amending Schedule 2, clause 3 so transfer agreements would need to describe the stormwater service zone and responsibilities relating to that zone that would be transferred

- Schedule 3 sets out what would need to be contained in a water services strategy. We recommend adding requirements to Schedule 3, clause 2 that a water services strategy must include a description of the stormwater service zone and, where relevant, any proposals to change that zone.

Defining stormwater service zone would enable councils to allocate responsibilities for cross-boundary connections between the urban stormwater network and stormwater services that are related to the stormwater network but are located outside the urban area.

### **Transport corridors**

*Relevant parts of the bill: Part 2, subpart 1*

Under the bill, a territorial authority would be able to transfer to a water organisation its responsibility for ensuring that water services are provided in its district. Clause 10 would impose limitations on the transfer of responsibilities in relation to transport corridors. A territorial authority that is also a corridor manager would need to ensure that it does not transfer either:

- the authority's ownership or control of any transport corridor stormwater infrastructure (*Clause 10(2)(a)*)
- any of the authority's responsibility for the operation of transport corridor stormwater infrastructure. (*Clause 10(2)(b)*)

Councils own and control stormwater assets in local roads in their capacity as road controlling authorities and transport corridor managers. The intent behind clause 10 is to protect the primary transport function of transport corridors.

We recommend deleting clause 10(2)(b) to enable councils to allocate responsibilities for stormwater services that may be connected to stormwater infrastructure in local roads. We think the wording of clause 10(2)(a) is sufficient to protect the primary transport function of transport corridors. Clause 10(2)(b) could undermine the ability of councils to provide for the integrated management of the stormwater network, and their ability to leverage the increased capacity and capability of a water organisation. This would be inconsistent with the bill's overall aim of enabling councils to determine what arrangements work best to meet their needs.

### **Service agreements for stormwater network**

*Relevant parts of the bill: Part 3, subpart 7, Clause 176*

Stormwater management involves overlapping jurisdictions. Different parties are required to work together to manage their respective statutory roles and functions. Clause 176 would enable a water service provider to enter into a service agreement with one or more entities that have a statutory role, function, or interest in the operation of any stormwater infrastructure in the provider's service area. Service agreements are intended to support the integrated management of stormwater infrastructure.

Many councils already use service level agreements to identify and set out roles and responsibilities to manage interactions between concerned parties. Anecdotal feedback from councils suggests that the effectiveness of these agreements can be limited by their inconsistent use and lack of enforceability. We therefore recommend amending clause 176 to require that water service providers and transport corridor managers for local roads must enter into a service agreement.

We think there should be further detail on what should be included in a service agreement. We recommend amending clause 176 to require service agreements to:

- specify the stormwater services and stormwater infrastructure to which the agreement applies and does not apply
- identify the parties to the agreement
- describe the parties' respective roles and responsibilities for the management, operation, or maintenance of the services to which the agreement applies and how those responsibilities will be allocated
- state how the stormwater services to which the agreement applies will be funded.

### **Stormwater network risk management plans**

*Relevant parts of the bill: Part 3, subpart 7,*

The bill would require territorial authorities to prepare stormwater network risk management plans that identify any hazards and assess and manage risk relating to the network. Territorial authorities would be able to transfer this responsibility to a water organisation.

Clause 165(1)(b) would require water service providers to adopt stormwater network risk management plans within 2 years. We agree with submissions that 2 years is too short and recommend amending it to 3 years.

Clause 168 would require water service providers to give the Water Services Authority a draft of its proposed stormwater network risk management plan and give effect to any comments from the authority in its final plan. We consider that this requirement could be unnecessarily burdensome on both the authority and water providers, given that the authority would not have an active regulatory role in the outcome or enforcement of these plans. We recommend deleting clause 168.

Instead, we recommend requiring water service providers to consult the public, their shareholder councils, regional councils, transport corridor managers, and the Water Services Authority before finalising their stormwater network risk management plans (new clause 168A). This consultation should be conducted in the same way as consultation on other plans under the bill (such as drinking water catchment plans and trade waste plans).

Clause 169 would require stormwater network managers to review and, as necessary, revise the stormwater infrastructure risk management plan at least once every 5 years. We note that stormwater network manager is an undefined term and recommend sub-

stituting the term “water service provider”. We also recommend extending the timing to once every 10 years, for consistency with the time frame for drinking water catchment plans and trade waste plans.

### **Critical infrastructure and impaired stormwater flow**

*Relevant parts of the bill: Part 3, subpart 7*

There is a risk that privately owned network infrastructure that is connected to the stormwater network could impair stormwater flow if it fails. Clause 167 would require a stormwater network risk management plan to identify critical infrastructure. We recommend inserting clause 164A to define critical infrastructure to mean stormwater infrastructure and processes whose failure would prevent or seriously impair the conveyance of stormwater in a stormwater network. This should include both:

- infrastructure that conveys stormwater to, or receives stormwater from, an overland flow path or a watercourse that crosses over or beneath private land
- infrastructure that is privately owned and is part of the conveyance of stormwater in a stormwater network.

To ensure that there is a process to address risk and hazards in relation to critical infrastructure that is privately owned, we recommend inserting clause 173A. This would set out the obligations of private landowners and water service providers as follows:

- If a stormwater network risk management plan identifies a hazard or risk relating to an overland flow path or a watercourse on land that is not owned by a water service provider, the water service provider must work collaboratively with the owner or occupier of the land to implement a solution to ensure that the risk is managed, controlled, monitored, or eliminated.
- The water service provider must implement a solution to ensure that the risk is managed, controlled, monitored, or eliminated if:
  - a collaborative approach cannot be agreed with the owner or occupier of the land in a reasonable time frame; or
  - the owner or occupier of the land is unable to implement a solution to address the risk identified in the stormwater network risk management plan.
- Any obligations imposed by a stormwater bylaw (discussed more below) would continue to apply to an owner of land.

### **Stormwater network bylaws**

*Relevant parts of the bill: Part 3, subpart 7*

Clause 170 would enable water service providers that are responsible for stormwater network management to make stormwater network bylaws. We agree with submissions that clause 170 should be amended to provide more specificity about the poten-

tial content of such bylaws. Stormwater bylaws should be able to address the following matters:

- obstructions and diversions of stormwater
- ground soakage systems
- alterations and damage to the stormwater network.

We also recommend amendments to provisions related to stormwater network bylaws for consistency with other bylaw-making processes. We discuss these amendments below.

### **Streamlining processes for regulatory plans and bylaws**

Currently, rules for drinking water catchments, trade waste, water supply, and wastewater services are made by councils as bylaws under the Local Government Act 2002. The bill would modernise the approach for water services bylaws. It would provide for three new types of plans:

- drinking water catchment plans
- trade waste plans
- stormwater network risk management plans.

Under the bill, territorial authorities would be able to make bylaws in relation to these plans.

#### **Drinking water catchment plans**

*Relevant parts of the bill: Part 3, subpart 5*

We recommend deleting clause 143 that would require water service providers to make drinking water catchment plans. We agree with submitters that the intended purpose and contents of drinking water catchment plans overlap with those of source water risk management plans (already required by the Water Services Act). The policy intent for drinking water catchment plans could more easily be achieved by amending the requirements of source water risk management plans.

We recommend inserting clause 308C into the bill, which would insert section 43A into the Water Services Act. This amendment would require water service providers to describe in their source water risk management plans land that:

- surrounds a source of a drinking water supply; or
- is a ground water catchment from which drinking water is sourced and land that the water service provider owns, has long-term control over, or has agreed with the land owner will be included in the plan.

We recommend that water service providers be able to propose that the territorial authority make a bylaw to help with their management of risks to drinking water sources in the above areas of land. We recommend amending clause 349 to require a territorial authority to consider any proposed bylaw from a water service provider in its source water risk management plans.

## **Trade waste plans**

*Relevant parts of the bill: Part 3, Subpart 6*

Clause 150 would require a territorial authority to issue a trade waste plan. The requirement for trade waste plans is intended to provide a nationally consistent basis for the local regulation of industrial trade waste discharges into wastewater networks.

We recommend various amendments to provisions related to trade waste plans to clarify roles and accountabilities, including amending the title of clause 150 to make clear that local authorities are responsible for making these plans.

Clause 150(7) would require a trade waste discharge plan to be provided to the Water Services Authority for comment before it is issued. We recommend deleting this requirement. The authority has no statutory interest in these plans, as they are a tool for local authorities and water service providers to regulate trade waste discharges. Retaining the requirement in clause 150(7) would add unnecessary time and cost to the making of the plan.

## **Stormwater network risk management plans and bylaws**

*Relevant parts of the bill: Part 3, subpart 7*

We discussed these earlier in this commentary, as part of our broader discussion of stormwater-related matters and amendments.

## **Bylaws**

*Relevant parts of the bill: Part 6, subpart 1*

One of the policy intents of the bill is to achieve more consistency among bylaws related to water services, while giving local authorities and water organisations the duties and powers they would need to operate water services infrastructure.

We agree with submissions that there should be greater alignment between provisions in the bill providing for the regulation of:

- water service network connections
- catchment management
- trade waste management
- stormwater network management.

We recommend amending clause 347 to align its wording with the above clauses and to clarify that these bylaws are to be made under the bylaw-making powers provided for in Part 6, subpart 1.

Clause 347(3) would require councils to send a copy of proposed trade waste bylaws to the Water Services Authority. We recommend deleting this requirement as it would add unnecessary compliance costs.

Clause 348 would enable a water service provider to propose the making, amending, or revoking of a water services bylaw. Clause 349 would require a territorial authority

to consider any proposal received under clause 348. We consider that the operation of clauses 348 and 349 in the bill as introduced would be complex and unclear, particularly regarding consultation. We recommend amendments to achieve the following process, which we consider would be more straightforward:

- A water organisation could propose a bylaw to its council (or councils, as relevant, noting that a particular bylaw may only be necessary in one council area).
- With the agreement of the local authority, the water organisation could consult on the proposed bylaw following consultation requirements under section 156 the Local Government Act 2022.
- The councils that received a proposed bylaw would need to consider whether the proposed bylaw meets the required statutory and regulatory requirements.
- If all requirements are met, the councils would be required to make the bylaw.

### **Financial principles and economic regulation**

Clause 16 would require water service providers to act in accordance with the following financial principles:

- A water service provider must spend the revenue it receives from providing water services on providing water services (including on maintenance, improvements, and providing for growth). *(Clause 16(1)(a))*
- A water service provider must ensure that the revenue it applies to the provision of water services is sufficient to sustain the provider's long-term investment in the provision of water services. *(Clause 16(1)(b))*
- A water service provider's revenue and expenses must be transparent to the public. *(Clause 16(1)(c))*
- A water service provider must be accountable for its revenue and expenses to its communities or shareholders. *(Clause 16(1)(d))*

We recommend several amendments to these principles; the most notable relate to dividend payments.

### **Dividend payments**

*Relevant parts of the bill: Part 2, subpart 1, clause 16*

We received submissions that opposed allowing water organisations to provide dividend payments to their shareholders. These submissions said that any dividends should be reinvested into water infrastructure, given historic underinvestment. They also raised concerns about the potential for privatisation and higher water charges for users.

We acknowledge these concerns, but do not agree that dividend payments should be banned. Water organisations are unlikely to make significant payments to their shareholders in the next 10 to 15 years due to pressures on their infrastructure investment programmes and increased scrutiny on prices and revenue provided by the bill. How-

ever, over time the ability for shareholders to authorise their water organisation to pay a dividend would provide incentives for improved efficiency.

However, we do think there could be some improvements in this area to support greater transparency and financial discipline. We recommend amending clause 16(1)(c) to refer to a water service provider's "dividends, if applicable" to ensure they are transparent to the public in the same way that revenue and expenses are. We also recommend inserting clause 16(3) so that the water organisation must not pay a dividend that would compromise its ability to act in accordance with the financial principle set out in clause 16(1)(b) (regarding sufficient long-term investment in the provision of water services). We recommend amending clause 16(1)(b) to also refer to the provider needing to meet all regulatory standards and requirements that apply to the provision of water services.

In sum, our position is that the payment of dividends should be allowed but must not compromise the ability of a water service provider to sustain long-term investment and meet all regulatory standards and requirements.

### **Commerce Act regulation of water services**

#### *Relevant parts of the bill: Schedule 6*

Schedule 6 of the bill would insert new Schedule 7 into the Commerce Act 1986. Clause 3(1) of new Schedule 7 would require regulated suppliers to spend the revenue they receive from providing regulated water services on providing those services (including on maintenance, improvements, and providing for growth).

For example, a council might receive revenue of \$100 million from providing water supply services and revenue of \$50 million from providing wastewater services. That council would be required to spend \$150 million on water supply services and wastewater services combined.

Clause 3(2) would empower the Commerce Commission to make further ring-fencing rules, under which it could require a regulated supplier to ensure that a portion of the revenue it receives from providing regulated water services is invested back into providing those services. If clause 3(1) or additional ring-fencing rules under clause 3(2) were breached, pecuniary penalties would be available.

The Commerce Commission has commented that clause 3(1) as introduced could be difficult to enforce. To address this, we recommend amendments to more directly link the Commission's monitoring and enforcement powers to the financial principle in clause 16(1)(a) of the bill. This would involve amending new Schedule 7, Part 1 to replace clause 3(1) as introduced to include a purpose statement (clause 2B).

We also recommend amending clause 3 of new Schedule 7 to enable the Commerce Commission to limit dividends paid by a water organisation to the extent necessary or desirable to ensure the organisation acts in accordance with clause 16(3)(b) (which would require water organisations not to pay a dividend that could compromise its ability to sustain long-term investment in its water services while meeting all regulatory standards).

We note that the Commerce Commission would be able to set additional ring-fencing requirements after the bill's commencement. However, its enforcement powers relating to those new requirements would only be available from 1 July 2027.

## Watercare

Watercare Services Limited (Watercare) is a council-controlled organisation that provides water supply and wastewater services on behalf of Auckland Council. Watercare owns the network infrastructure for Auckland's water supply and wastewater.

The Local Government (Water Services Preliminary Arrangements) Act 2024 provides for the financial separation of Watercare from Auckland Council and interim economic regulation of Watercare. To become financially separate, Watercare is in the process of obtaining a credit rating and raising more than \$3 billion in financing. This would be used to repay debt to Auckland Council and fund future infrastructure investment.

This bill would subject Watercare to many of the same minimum statutory requirements and obligations as other water organisations. However, Watercare would:

- continue to be prohibited from paying dividends or any surplus to Auckland Council
- be excluded from the charging provisions under the bill and continue to rely on its contractual charging method
- be unable to use the development contributions regime in the bill.

## Status as water organisation and water service provider

*Relevant parts of the bill: Part 1, clause 4 and Schedule 1*

Clause 4 defines the terms "water organisation" and "water service provider". It is intended that Watercare would meet both definitions. We recommend amendments to ensure that Watercare (referred to as an Auckland water organisation) is clearly covered by both. We also recommend amendments to preserve the bespoke scope of the responsibilities that apply to Watercare under the Local Government (Auckland Council) Act 2009. Any inclusions or exclusions under that Act should continue to apply, so there is no confusion about Watercare's responsibilities.

Schedule 1, clause 8 of the bill sets out transitional provisions for council-controlled organisations deemed to be water organisations. It is intended that Watercare would automatically become a water organisation, without the need to comply with Schedule 1, clause 8. We recommend amending the bill so that Schedule 1, clause 8 does not apply to Watercare.

## **Taxation**

*Relevant parts of the bill: Part 5, subpart 3, clauses 235 to 237*

Clause 236 would insert section CW 55BC into the Income Tax Act 2007. In the bill as introduced, this new section would provide that the income of a water organisation—except for Watercare—is tax-exempt income.

Auckland Council submitted that Watercare should be able to access the proposed income tax exemption in the same way as other water organisations. We agree, and recommend deleting clause CW 55BC (1)(d) from clause 236(1) to allow Watercare to access the tax exemption.

Our reasoning is that Watercare satisfies the criteria to be a water organisation, so should have the same tax treatment as other organisations. Further, we note that Watercare’s primary public policy purpose is to undertake water-related activities in a monopoly market, rather than a profit-making activity in competition with the private sector.

We note that the tax losses that Watercare has accumulated would not be affected by this provision. Those tax losses are used by the Auckland Council group to offset tax liabilities from other council-controlled organisations.

## **Māori interests**

### **Treaty settlement obligations**

*Relevant parts of the bill: Clauses 4, 6A, and 41*

Clause 41 would require water service providers to act in a manner that is consistent with Treaty settlement obligations when performing and exercising functions, powers, and duties under this legislation.

We received submissions that clause 41 should appear earlier in the bill to recognise its broad applicability. We agree and recommend moving the definitions in clause 41 to clause 4. We also recommend converting clause 41(1) to new clause 6A and rewording it so that all persons—not just water service providers—exercising functions, powers, and duties under the bill would need to act in a manner that is consistent with Treaty settlement obligations. This would align with the wording of other legislation, such as section 7 of the Fast-track Approvals Act 2024.

### **Māori land access**

*Relevant parts of the bill: Part 3, subpart 4*

Subpart 4 of Part 3 would enable a water service provider entering privately owned land (including Māori land) to carry out works in relation to water services infrastructure. Clauses 116 to 122 would impose requirements on the exercise of this power. Clauses 123 to 130 would impose requirements specifically in relation to Māori land.

The general policy intent is to make largely equivalent provision for access to Māori land as for other land. However, we consider several differences appropriate. These are not reflected in the bill as introduced. We recommend amendments to:

- more clearly identify the types of Māori land that are included within the specific provisions, namely:
  - Māori land and a Māori reservation as defined by Te Ture Whenua Māori Act 1993
  - any land on which a marae or urupā is situated
  - land vested in or administered by a post-settlement governance entity.
- make clear that owners and occupiers have different rights and interests in relation to notice, consent, and conditions (this clarification applies to general land as well as Māori land)
- rely on some processes under Te Ture Whenua Māori Act
- set out specific notice requirements where there is a marae or urupā situated on the land.

### **Waikato River Treaty settlement arrangements**

*Relevant parts of the bill: Part 5, subpart 7 and new subpart 8B*

Under the Treaty settlement Acts for the Waikato River, Te Ture Whaimana o Te Awa o Waikato is the principal strategic document for the Waikato River. It prevails over planning documents under the Resource Management Act, including national policy statements and national environmental standards.

The bill as introduced does not provide for Te Ture Whaimana to prevail where it is inconsistent with national environmental performance standards and infrastructure design solutions. We think that it should and recommend amending the bill accordingly. This would be achieved through amendments to clause 269, inserting new clause 273C (which would amend the Resource Management Act), and inserting subpart 8B into Part 5 (which would amend Waikato River Treaty settlement legislation).

We also recommend the following amendments, which we view as consistent with Treaty settlement obligations and the policy intent of the relevant clauses:

- amending clause 39 to provide that territorial authorities and third parties (that are iwi, hapū, or other Māori organisations) must work together to confirm how existing contracts, agreements, or arrangements will apply to a water organisation
- inserting clauses 297E and 297H to amend the Waikato River Treaty settlement legislation to refer to the Local Government (Water Services) Act.

We note that the Waikato River iwi have indicated their support for the above amendments.

## Ngāti Rangī Treaty settlement arrangements

*Relevant parts of the bill: Schedule 12*

On behalf of Ngāti Rangī, Ngā Waihua o Paerangi Trust submitted on the bill. They also wrote to the Department of Internal Affairs (our advisers on the bill) seeking an amendment to the Ngāti Rangī Claims Settlement Act 2019.

Section 109 of the Ngāti Rangī Claims Settlement Act provides that persons exercising a power, function, or duty under an Act listed in Schedule 5, clause 1 must recognise and provide for the concepts of Te Mana Tupua and Ngā Toko Tupua. The Local Government Act 2002 is listed in Schedule 5, clause 1.

We recommend adding the following Acts to Schedule 5, clause 1 of the Ngāti Rangī Claims Settlement Act:

- Taumata Arowai—the Water Services Regulator Act 2020 (which the bill would rename to Water Services Authority—Taumata Arowai Act 2020)
- Water Services Act 2021
- Local Government (Water Services) Act 2025.

We consider it appropriate to add these Acts as they relate to local government water services and decision-making in the same way the Local Government Act does. This amendment would be made under Schedule 12 of the bill (consequential amendments to other Acts). We note that Ngāti Rangī has indicated its support for these amendments.

## Requirement to provide information and Officers of Parliament

*Relevant parts of the bill: Part 6, subpart 4, clauses 424 to 431*

Clause 424 would require the Minister of Local Government to initiate a review of the water services system approximately five years after the enactment of the bill. Clause 429 would empower the department, person, or panel of people that undertake the review to require entities to provide information.

Although clause 429 does not specifically name the Auditor-General or other Officers of Parliament, it would enable the reviewer to require “any other relevant person or body” to provide information. We think Officers of Parliament should be excluded from this requirement and recommend amending clause 429 accordingly.

The Auditor-General holds a great deal of information about public entities and is not subject to the Official Information Act 1982 or the Privacy Act 2020 in the same way as other entities. We note that the reviewer would still be able to request information from the Auditor-General under section 30 of the Public Audit Act 2001 (which empowers the Auditor-General to disclose information after proper consideration).

## **Local Government Funding Agency**

The Local Government Borrowing Act 2011 enables the Local Government Funding Agency to provide more efficient financing costs and diversified financing sources to local government. The agency currently finances approximately \$20 billion of local government sector debt. It provides financing to 72 councils and 7 council-controlled organisations.

In August 2024, the agency resolved to extend its existing lending to council-controlled organisations to new water organisations (in certain circumstances). Water organisations that are guaranteed by the parent councils will be able to borrow up to an equivalent of 500 percent of their revenue.

### **Crown lending to the agency without an appropriation**

*Relevant parts of the bill: Schedule 12*

Section 15(1) of the Local Government Borrowing Act permits the Crown to lend money to the agency without an appropriation in certain circumstances. However, section 15(2) limits this provision to 10 years from the date of the Act's commencement, so it has now expired.

We consider it appropriate to reinstate this provision to support lending to new water organisations. Extended funding for water organisations from the Local Government Funding Agency is a key part of the policy rationale of the bill. We recommend amending section 15(2) of the Local Government Borrowing Act so that section 15(1) expires on 30 June 2037 (12 years from the next financial year). This amendment would be made under Schedule 12 of the bill (consequential amendments to other Acts). Without this amendment, the Crown would need to constantly review and roll forward shorter-term appropriations.

### **Offences related to specified serious risk**

Clauses 394, 396, 399, 403, and 405 relate to intentional or reckless conduct that causes a "specified serious risk." Specified serious risk means a serious risk of, or to, any of the following in relation to the delivery of water services:

- illness, injury, or death
- public health
- the natural or built environment
- water services infrastructure
- sites of cultural significance.

In the bill as introduced, the intention or recklessness is required only in respect of the conduct, not the risk that the conduct creates. We recommend amending clauses 349, 396, 399, 403, and 405 to reverse this, so the intent or recklessness applies to the outcome rather than the conduct.

## **New Zealand Labour Party differing view**

The New Zealand Labour Party is opposed to the passage of this bill. The bill is the final piece that will give effect to the Government's water reforms—which we believe lack the longitudinal courage required to ensure the provision of affordable water services for communities of interest over the decades to come. The bill's provisions will lead to increased costs for local councils and ratepayers. The Government had assured local councils of financial support following the repeal of water reform, but this bill does not fulfil that commitment. Department of Internal Affairs advice has indicated that most ratepayers will incur higher costs compared to the previous water reform approach initiated by the previous Government.

This bill fails to provide an adequate solution for local councils and imposes additional responsibilities without providing the necessary funding. Clause 7 of the bill identifies at a high level the structural arrangements for councils to provide water services. This is a mandated form of new compliance requirements. The local government sector has consistently emphasised that any new requirements from the Government must be accompanied by financial support to avoid further rate hikes. Labour members believe that the absence of direct and meaningful financial assistance in this bill will intensify cost pressures on households, as rising rates are a significant factor in the increasing cost of living challenges facing households. This approach of lumping more expectations and costs on to the local government sector is the mantra of this government and has now become commonplace, reflecting their disdain for the sector.

Moreover, the bill does not provide an adequate level of assurance to local councils, especially smaller and rural ones, to mitigate any risk that they will not be left to handle water services independently. This bill gives effect to a process which allows for the transfer of water services responsibilities without any guarantee of an incentive for any economies of scale envisaged under the former reform package. This approach makes it easier for some councils to maintain the status quo, which will lead to an increase in expenditure, and therefore rates, in the longer term. Such an approach is unsustainable. Many smaller and rural councils face prohibitive costs to maintain and upgrade water services without the benefits of scale and efficiency from collaborating with other councils. The bill relies on the cooperation and willingness of neighbouring councils, which does not offer the necessary guarantees for affordability and sustainability.

While some changes have been made to reflect the applicability of Māori land, this is piecemeal in the wider approach to the Government's reforms. This bill, alongside the previous two water services bills that gave cumulative effect to these water reforms, do not enhance Iwi/Māori relations.

Labour members view this bill as imposing additional compliance burdens on local councils and ratepayers without delivering clear benefits. This missed opportunity will only increase uncertainty for councils, potentially forcing them to raise rates to levels that many households cannot afford over the long term. It is setting councils and communities up to fail, and we do not support that approach.

## **Green Party of Aotearoa New Zealand differing view**

The Green Party of Aotearoa New Zealand opposes this bill, which is an inadequate “solution” to one of our most pressing and fundamental issues: New Zealanders’ access (or lack of access) to clean, safe, affordable drinking water and wastewater and stormwater systems that do not unnecessarily harm the health of our communities and Te Taiao—our environment.

This was an opportunity for creating a fit-for-purpose framework which could have ensured that no community was left behind with substandard, poor-quality drinking water, and that our environment was protected and restored, with the full involvement of Iwi Māori in their exercise of rangatiratanga over water in their rohe. Instead, the Government has pushed ahead with this rushed bill that will leave many of our communities with risky, unsafe drinking water, polluted rivers, beaches, and estuaries, and isolated councils and communities who could face unsustainable rate rises or suffer the consequences of poor service and delivery.

We welcome the strengthening of Māori rights and interests when it comes to Treaty settlement obligations, particularly Te Ture Whaimana o Te Awa o Waikato and Ngāti Rangi as now provided for in the bill. We agree that this should apply to all persons exercising functions, powers, and duties under the bill. However, we note that there remains an unacceptable void for lack of involvement and recognition of the role of iwi and hapū who have not yet settled. The role of Iwi Māori partnerships and the Crown’s Te Tiriti o Waitangi obligations should be emphasised and clearly provided for in water service governance and delivery with clear mechanisms for Iwi Māori voice and representation and protection of their rights and interests.

We strongly oppose the aspects of this legislation that take us further away from appropriate investment in adequate drinking water, wastewater, and stormwater infrastructure that would allow for environmental improvement and Te Mana o Te Wai. This is especially prominent in the single standards for wastewater and stormwater and the removal of the objective to provide water services that do not have adverse effects on the environment.

The proposed setting of single stormwater and wastewater standards is a dangerous and ill-thought-out proposal that is disconnected from the needs and wishes of communities and the specific complexities of the ecology of our freshwater and marine ecosystems. We strongly disagree with where those standards are given effect to in Part 5 of the bill, that override any existing, more stringent standards or limits already set in key legislation such as a National Policy Statement, New Zealand coastal policy statement, national environmental standard, or a regional or district plan.

The rationale provided for removing the objective “to provide water services that do not have adverse effects on the environment” is that this bill itself does not regulate environmental effects. This rationale is deeply flawed and means the bill misses the clear opportunity to introduce sensible, future-proofed water reform that puts an end to our “ambulance at the bottom of the cliff” approach. Instead, this bill simply further entrenches our continued failure to design, build, and deliver infrastructure that protects the health of our communities and our environment from the outset. In prac-

tice, this continues the status quo in which the costs of pollution in human health and ecosystem damage are only faced when they emerge at the tail end of the system. This approach not only deprioritises the safety and quality of people's drinking water, it also risks locking in further underinvestment through substandard infrastructure, to the detriment of human and ecosystem health.

We are concerned about the rushed approach to the development and definitions of stormwater provisions that do not provide clarity about the complexities of stormwater's connection to the wider natural environment and urban development.

As with the series of bills leading up to this substantive bill, the Green Party is disappointed by this missed opportunity to prioritise the health and wellbeing of our communities and our environment by addressing our pressing water infrastructure and human and environmental health needs, in a way that is fit for purpose for Aotearoa New Zealand. We oppose the bill.

### **Te Pāti Māori differing view**

Te Pāti Māori opposes the Local Government (Water Services) Bill in its current form.

While the bill establishes enduring arrangements for water service delivery, it fails to uphold Te Tiriti o Waitangi, excludes Māori from shared governance, erases environmental protection duties, and ignores climate adaptation imperatives. It represents a continuation of Crown-led water reforms that deny mana whenua authority and treat water as infrastructure, not taonga.

### **Treaty breach and exclusion of mana whenua**

Numerous iwi and hapū submitters raised deep concerns that the bill removes Māori from decision-making roles, despite their Treaty partnership status.

This bill replaces co-governance with shareholder models dominated by territorial authorities. The legal framework gives local government full authority over strategic planning, while iwi and hapū are relegated to non-binding consultation roles. This is a direct breach of Te Tiriti o Waitangi and the Crown's Treaty obligations.

### **Te Mana o te Wai is not legally upheld**

Te Mana o te Wai is not embedded as a legally enforceable hierarchy. In fact, Te Mana o te Wai is repealed. Clause 15 removes the objective to avoid environmental harm, instead pushing responsibility for environmental impacts to the Resource Management Act. This divorces water governance from te taiao and undermines the holistic Māori worldview that Te Mana o te Wai is based on. As one iwi submitter put it:

This Bill ... disestablishes a value-based framework (Te Mana o te Wai) aimed at centring water itself.

– Ngāti Rangī

Te Pāti Māori holds that Te Mana o te Wai must be the primary legal principle in all water service delivery frameworks, giving effect to Māori spiritual, cultural, and environmental relationships with water.

### **No recognition of Māori water rights**

The bill makes no reference to Māori proprietary interests in water, despite the findings of the Waitangi Tribunal in Wai 2358 (Stage 2). The Crown's obligation to recognise and protect Māori water ownership and allocation rights is ignored. There is no statutory mechanism for:

- Māori allocation frameworks
- revenue sharing
- ownership redress
- protection of customary rights.

This undermines the Tribunal's findings and continues the Crown's historical pattern of legislating around, not with, Māori.

### **Climate crisis excluded from governance**

Despite the severe and growing risks posed by climate change to water systems, the bill fails to include any explicit climate duties for water service providers. There are:

- no mandatory resilience planning requirements
- no provisions for climate vulnerability assessments
- no prioritisation of adaptation for flood, drought, or sea level rise
- no climate justice funding for vulnerable rural or Māori communities.

Evidence to the committee from councils and iwi emphasised that climate-exposed communities need legislation that mandates long-term planning, ecological thresholds, and culturally grounded adaptive frameworks.

This bill offers none.

### **Development prioritised over kaitiakitanga**

Clause 15 shifts water service objectives toward "supporting housing growth and urban development", while removing reference to avoiding environmental harm. The bill embeds a developer-aligned funding and service model with little regard for environmental degradation or Māori kaitiakitanga. This creates risks of over-extraction, stormwater mismanagement, and downstream degradation of culturally significant waterways.

This bill may provide structural clarity for water delivery, but it institutionalises exclusion, deregulation, and developer-led priorities. It fails to uphold Te Tiriti o Waitangi, protect the environment, or plan for climate collapse. Māori continue to be treated as stakeholders, not partners, in the governance of a taonga.

Te Pāti Māori calls for the bill to be withdrawn and redrafted in partnership with mana whenua, not just to honour Te Tiriti, but to restore balance to the waters of this land.

### **Failure to enable Mana Motuhake**

Te Pati Māori opposes water services reform that is done to hapu and iwi Māori and not with hapu and iwi Māori as tangata whenua. This bill fails to recognise the authority of hapu at-place and is an attempt to resigns all hapu, iwi and Māori rights and interests to Treaty settlements only.

We challenge the “local” aspect of “Local Water Done Well” given that numerous hapu and iwi nationwide—who have complex agreements and arrangements provided through Treaty settlements and bespoke arrangements which sit outside of Treaty settlements—will be affected and consider that engagement on the reform programme has been woefully inadequate.

### **Failure to achieve Mana Orite**

Access to water services and the quality of those services across the country are fraught with inequities among regions and communities. Historical advice shows that Māori communities receive lower levels of services compared to non-Māori communities, with some Māori communities simply receiving none at all.

We consider that the bill not only fails to address these existing inequities, but merely builds on from them, offsetting the costs of development to Māori people and places while denying those communities the critical investment required to enjoy quality water services, as kaitiaki and as ratepayers.

### **Failure to secure Mana Mokopuna**

Te Pati Māori considers that a country developed on a patchwork of local deals creates winners and losers, further exacerbating inequities and prolonging the necessary investment required to achieve broader community and environmental wellbeing outcomes.

Māori communities require investment certainty of quality water services because water services form a critical part of hapu and iwi intergenerational aspirations for people and place.

### **Recommendations by PCO on clauses affecting Māori rights and interests**

We support recommendations made by PCO in relation to the removal of provisions that use legislation to target Māori, combined with recommendations that strengthen and clarify other Māori rights and interests provisions as set out in its track-change document to the committee.

## **Appendix A—Process and membership**

### **Committee process**

The Local Government (Water Services) Bill was referred to the Finance and Expenditure Committee on 17 December 2024. The following day, we called for submissions on the bill with a closing date of 23 February 2025. We granted several councils a week-long extension to account for their meeting schedules.

We received and considered submissions from 183 interested groups and individuals. We heard oral evidence from 40 submitters at hearings held in Wellington and by videoconference. We wish to acknowledge the efforts of all submitters and thank them for their engagement.

We received advice on the bill from the Department of Internal Affairs, the Ministry of Business, Innovation and Employment, and Taumata Arowai—the Water Services Regulator. The Office of the Clerk provided advice on the bill’s legislative quality. The Parliamentary Counsel Office assisted with legal drafting. The Regulations Review Committee wrote to us about regulation making powers in the bill.

The original deadline for our report to the House was 17 June 2025. We sought and received an extension from the Business Committee to 4 July 2025.

### **Committee membership**

Cameron Brewer (Chairperson)

Jamie Arbuckle

Dan Bidois

Hon Barbara Edmonds

Ryan Hamilton

Mariameno Kapa-Kingi (from 4 June 2025)

Nancy Lu

Hon Dr Deborah Russell

Todd Stephenson

Chlöe Swarbrick

Rawiri Waititi (until 4 June 2025)

Hon Dr Megan Woods

Lan Pham and Tangi Utikere participated in our consideration of this bill.

### **Related resources**

The documents we received as advice and evidence are available on the Parliament website.

## Appendix B—Key actors in the water services system

The list below describes the roles of the actors in the water services delivery system, including new actors and new roles that the bill would introduce.

- **Commerce Commission**—The commission is responsible for the initial economic regulation of councils and council-controlled organisations that are declared to be regulated under the Local Government (Water Services Preliminary Arrangements) Act 2024. It is also the Crown monitor of Watercare Services Limited. The bill would establish an enduring economic regulation regime, overseen by the commission, which would replace these transitional regimes.
- **Councils**—General term that refers to all councils, including regional councils and territorial authorities (district and city councils). New Zealand has 11 regional councils and 67 territorial authorities (53 district councils and 12 city councils, plus Auckland Council and Chatham Island Council. Six territorial authorities are unitary authorities).
- **Council-controlled organisation**—A council organisation under the Local Government Act 2002, which is a company or entity that is at least 50 percent owned or controlled by councils.
- **Local Government Funding Agency**—The agency raises debt on behalf of councils on terms more favourable for them than if they raised debt directly. The agency is a council-controlled organisation with 31 shareholders, including central government (20 percent) and 30 councils (80 percent). Crown support makes the agency’s credit ratings the same as the New Zealand Sovereign ratings.
- **Local government water service provider**—Most of the provisions in the bill would apply to councils that provide water services directly, and water organisations. There are components of the bill relating to the amendments to the Water Services Act 2021 that also affect private and Crown drinking water suppliers, and Crown wastewater and stormwater network operators (that is, suppliers and providers that are not local government).
- **Regional councils**—Primarily responsible for environmental management and planning in their region, including flood control, air and water quality, and pest control. Wellington Regional Council is also responsible for bulk water supply, including water collection areas and water treatment plants.
- **Regulated supplier**—The bill would introduce a new water services subpart into Part 4 of the Commerce Act 1986 that would apply to regulated suppliers. This term includes a “decision-making local government water service supplier” (that is, a council or water organisation that is responsible for decisions about expenditure and/or cost recovery), as well as any suppliers that are declared to be regulated by Order in Council.

- **Territorial authorities**—District and city councils, which are responsible for providing a wide range of services, including network infrastructure such as water supply, sewage disposal, stormwater disposal, and local roads.
- **Unitary authorities**—Territorial authorities that also have the role, functions, and responsibilities of a regional council.
- **Water organisation**—Refers only to separate organisations that councils establish to provide water services (including current council-controlled organisations that provide water services), not councils with direct, in-house delivery. Consumer trusts may also be shareholders of a water organisation. Water organisations must be companies, incorporated under the Companies Act 1993. An exemption to this requirement may be sought and can be granted by Order in Council.
- **Water organisation shareholders**—The shareholders of a water organisation may be councils, or the trustees of a consumer trust that has been established for this purpose. The role of a water organisation shareholder includes:
  - appointing the board of the water organisation
  - issuing a statement of expectations under the new planning and accountability framework that would be introduced by the bill.

Shareholders' rights and obligations under the Companies Act 1993 apply to water organisation shareholders.

- **Water Services Authority—Taumata Arowai**—The authority is the water services regulator established under the Taumata Arowai—the Water Services Regulator Act 2020 (the bill would change the name of that Act to the Water Services Authority—Taumata Arowai Act 2020) with powers and functions under the Water Services Act 2021.
- **Water service provider**—Means any of the following:
  - a territorial authority that provides water services directly, including through a contract with a third party or a joint water service provider arrangement
  - a water organisation to which a council has transferred responsibility for the provision of water services
  - a regional council that provides water services.

Does not include private providers.

**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted by a majority

~~text deleted by a majority~~



*Hon Simon Watts*

# **Local Government (Water Services) Bill**

Government Bill

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

**1 Title**

This Act is the Local Government (Water Services) Act **2024**.

**2 Commencement**

- (1) This Act comes into force on the day after Royal assent. 5
- (2) However, **section 432** to the extent that it repeals subpart 3 of Part 2 of the Local Government (Water Services Preliminary Arrangements) Act 2024 comes into force on **1 July 2026**.

**Part 1**

**Preliminary provisions** 10

**3 Purposes**

The purposes of this Act are—

- (a) to establish a framework for local government to provide water services in a flexible, cost-effective, financially sustainable, and accountable manner, by— 15
- (i) providing for territorial authorities' responsibility for ~~the provision of providing~~ water services in their districts and the different methods by which they can structure service provision arrangements, including through water organisations; and
- (ii) setting out the responsibilities that apply to territorial authorities and water organisations as water service providers, and the functions, duties, and powers that are associated with meeting those responsibilities; and 20
- (iii) ensuring that information about providing water services ~~service provision~~, including information relating to revenue, charging, 25

expenditure, and levels of service, is transparent for consumers and communities; and

- (b) in **Part 5**, to—
- (i) enable effective and proportionate economic regulation of water services and water quality regulation; and 5
  - (ii) provide the Minister of Local Government with powers to act when a water service provider is facing a problem or potential problem.

#### 4 Interpretation

In this Act, unless the context otherwise requires,— 10

**Auckland water organisation** has the meaning set out in section 4(1) of the Local Government (Auckland Council) Act 2009

**board**, in relation to a water organisation, includes the governing body of the organisation if the organisation is not a company

**claimant group** means a group of Māori with Treaty of Waitangi claims against the Crown under the Treaty of Waitangi Act 1975, whether or not those claims have been submitted to, or inquired into by, the Waitangi Tribunal 15

**collective area** has the meaning set out in **section 25(8)**

**consumer** means a person who consumes, uses, ~~or is provided with,~~ or benefits from the provision of, water services 20

**consumer trust** means a trust—

- (a) that has—
- (i) been established under **subpart 3 of Part 2**; and
  - (ii) had shares in a water organisation allocated or transferred to or vested in its trustees; and 25

- (b) whose trustees continue to hold shares described in **paragraph (a)(ii)**

**corridor manager** has the meaning set out in section 4 of the Utilities Access Act 2010

**council-controlled organisation** has the meaning set out in section 6 of the LGA 2002 30

~~**council-controlled trading organisation** has the meaning set out in section 6 of the LGA 2002~~

**district** means the district of a territorial authority

**district plan** means a territorial authority's district plan, as that term is defined in section 43AA of ~~prepared under~~ the Resource Management Act 1991 35

**drinking water** has the meaning set out in section 6 of the Water Services Act 2021

~~drinking water supply~~ has the meaning set out in section 9 of the Water Services Act 2021

**financial year** means a period of 12 months ending on 30 June

~~firefighting water supplies~~ has the meaning set out in section 6 of the Fire and Emergency New Zealand Act 2017

**foundation documents**, in relation to a water organisation, means,—

(a) if the organisation has a constitution,—

(i) the constitution; and

(ii) the shareholders' agreement (if there is more than 1 shareholder);

or

(b) if the organisation does not have a constitution, all rules and other documents that establish or govern the water organisation (including the shareholders' agreement if there is more than 1 shareholder)

**generally accepted accounting practice** has the meaning set out in section 8 of the Financial Reporting Act 2013

**green water services infrastructure** means a natural, semi-natural, or engineered area, feature, or process that mimics natural areas, features, or processes that are planned or managed to provide water services

**group of water services activities** means all of the water services activities provided by, or on behalf of, a water service provider as part of providing one of the following:

(a) water supply services:

(b) stormwater services:

(c) wastewater services

~~infrastructure~~, in relation to a water services network, ~~includes the capability and capacity of the infrastructure to perform necessary processes, including the processes of attenuation and treatment~~

**joint water service provider arrangement** means an arrangement entered into by 2 or more water service providers for 1 or both of the following purposes:

(a) providing water services or any aspect of water services in the providers' combined service areas;

(b) providing for any matters relating to providing water services (for example, a shared service agreement for technical or administrative support)

**LGA 2002** means the Local Government Act 2002

**Māori customary land** has the ~~same~~ meaning as set out in section 4 of Te Ture Whenua Maori Act 1993

**Māori freehold land** has the ~~same~~ meaning as set out in section 4 of Te Ture Whenua Maori Act 1993

**Māori land** has the ~~same~~ meaning as set out in section 4 of the Te Ture Whenua Maori Act 1993

**Māori reservation** has the ~~same~~ meaning as set out in section 4 of the Te Ture Whenua Maori Act 1993

**overland flow path** means ~~any flow path taken by stormwater on the surface of land~~ 5

- (a) a low point in terrain (other than a watercourse)—
- (i) where surface runoff flows; and
  - (ii) that receives water from an upstream contributing catchment larger than 4,000 m<sup>2</sup>; or 10
- (b) any other location identified as an overland flow path in a stormwater network risk management plan

**post-settlement governance entity—**

- (a) means a body corporate or the trustees of a trust established by a claimant group for the purposes of receiving redress or participating in arrangements established under a Treaty settlement Act; and 15
- (b) includes an entity established to represent a collective or combination of claimant groups

**publicly available**, in relation to information of any kind, means that the person or body making the information publicly available, must take reasonable steps to— 20

- (a) ensure that the information or a copy of it is accessible to the general public in a manner appropriate to the nature of the information and the purpose of its publication, including, where practicable, on the person's or body's internet site; and 25
- (b) publicise, in a manner appropriate to the purpose and significance of the information, both the fact that the information (or a copy of it) is available and the manner in which the information (or the copy) may be accessed

**rating information database** has the meaning set out in section 5 of the Local Government (Rating) Act 2002 30

**regulatory requirement** means a requirement, responsibility, or obligation of any kind imposed, by or under this or any other Act,—

- (a) on water service providers; or
- (b) in relation to providing water services 35

**Secretary** means the Secretary for Local Government

~~service area, —, in relation to a water service provider, means the area in which it provides water services~~

(a) for a water service provider that is a territorial authority, a regional council, or an Auckland water organisation,—

(i) means—

(A) the provider’s district or region as listed in Schedule 2 of the LGA 2002; and

(B) any additional area in which the provider provides water services under any kind of agreement or arrangement entered into under **Part 2**; and

(ii) includes any infrastructure located outside the area described in **subparagraph (i)** that the provider uses to provide services within the area; and

(b) for a water service provider that is a water organisation, means the area specified in 1 or more transfer agreements under **section 11 or 13**

**shareholder** means one of the following that holds shares in a water organisation:

(a) a territorial authority;

(b) the trustees of a consumer trust;

(c) any other body that is permitted to hold shares under an exemption granted under **section 57**

**significance and engagement policy**, in relation to a water service provider, means,—

(a) for a provider that is a territorial authority, the significance and engagement policy that the authority adopts under section 76AA of the LGA 2002; and

(b) for a provider that is a water organisation, the significance and engagement policy that the organisation adopts under **section 30C**

**specified serious risk** has the meaning set out in **section 344**

**statement of expectations** has the meaning set out in **section 180**

**stormwater network**—

(a) means the water services infrastructure and processes that ~~are~~ is—

(i) used to provide a stormwater service; and

(ii) owned by, or operated by, for, or on behalf of, a water service provider; and

(b) includes any of the following that receives stormwater from, or conveys stormwater ~~is part of, or related to~~, the infrastructure referred to in **paragraph (a)**:

- (i) an overland flow path:
- (ii) green water services infrastructure:
- (iii) ~~watercourses~~ a watercourse; and
- (c) in **subpart 7 of Part 3** (management of stormwater networks), also includes the matters referred to in **section 164(2)** 5
- stormwater network bylaw** means a water services bylaw that relates to stormwater networks
- stormwater network risk management plan**—
- (a) means a stormwater network risk management plan prepared, adopted, and implemented by a water service provider (see **section 165**); and 10
- (b) includes any of the following prepared by water service providers under **section 166**:
- (i) a separate plan for an aspect of a stormwater network:
- (ii) a joint plan
- stormwater service zone** means a geographic area (comprising 1 or more urban areas and land adjacent to 1 or more of those urban areas) within a water service provider's service area that provides stormwater services to, or receives stormwater services from, the stormwater network 15
- stormwater services**—~~service~~
- (a) means the collection, treatment, drainage, reuse, or discharge of stormwater in an urban area and any stormwater service zone; but 20
- (b) does not include any of those services ~~a service~~ relating to a transport corridor
- strategic water services asset**, for a water service provider,—
- (a) means water services infrastructure or another asset or group of assets without which the provider is unable— 25
- (i) to meet its regulatory requirements; and
- (ii) to maintain its capacity to achieve the outcomes set out in its water services strategy; and
- (b) includes an asset or group of assets listed as strategic water services assets in the provider's significance and engagement policy 30
- tankered waste**—
- (a) means water or other liquid, including waste matter in solution or suspension, that is conveyed by vehicle for disposal; but
- (b) does not include domestic wastewater that is discharged directly from houses, caravans, buses, or similar vehicles 35
- territorial authority** has the meaning set out in section 5(1) of the LGA 2002

~~**trade waste—**~~

- ~~(a) means any waste that is—~~
- ~~(i) produced for an industrial or trade purpose, or a related purpose; and~~
  - ~~(ii) discharged into a wastewater network; but~~ 5
- ~~(b) does not include any class of waste or material that has been specified not to be trade waste by a trade waste plan under **section 450**~~

**trade waste—**

- (a) means—
- (i) any waste that is produced in the course of an industrial, commercial, or trade process or operation, or in a related process or operation, and discharged into a wastewater network; and 10
  - (ii) any tankered waste; but
- (b) does not include any class of waste or material that has been specified not to be trade waste by a trade waste discharge plan made under **section 150** 15

**trade waste services** has the meaning set out in **section 60(7)**

**transfer agreement** means an agreement entered into with a water organisation by—

- (a) a territorial authority under **section 11 or 13**; or 20
- (b) a regional council under **section 34**

**transport corridor** has the meaning set out in section 4 of the Utilities Access Act 2010

**transport corridor stormwater infrastructure** means infrastructure that—

- (a) relates to the transport function of a transport corridor managed by the territorial authority; and 25
- (b) is used to collect, treat, drain, reuse, or discharge stormwater

**Treaty settlement Act** means—

- (a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; or
- (b) any other Act that provides redress for Treaty of Waitangi claims, including Acts that provide collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act, including— 30
  - (i) the Maori Commercial Aquaculture Claims Settlement Act 2004;
  - (ii) the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014; 35
  - (iii) the Nga Wai o Maniapoto (Waipa River) Act 2012;

(iv) the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010;

(v) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and secondary legislation that gives effect to section 10 of that Act and is made under Part 9 of the Fisheries Act 1996

5

**Treaty settlement deed**—

(a) means a deed or other agreement that—

(i) has been signed by or on behalf of a Minister of the Crown and representatives of a group of Māori; and

(ii) is in settlement of the claims of that group or in express anticipation, or on account, of that settlement; and

10

(b) to avoid doubt, includes a deed or other agreement of the kind described in **paragraph (a)** that relates to the claims of a collective or combination of Māori groups; but

(c) does not include an agreement in principle or any document that is preliminary to a signed and ratified deed

15

**Treaty settlement obligations** means an obligation under a Treaty settlement Act or a Treaty settlement deed

**trustee, in relation to a consumer trust,** means a trustee of ~~a consumer~~ that trust  
**urban area**—

20

(a) means an area identified in a district plan or proposed district plan as being primarily zoned for residential, industrial, or commercial activities, together with adjoining special-purpose and open-space zones, however described; but

(b) does not include an area zoned primarily for rural or rural-residential activities, however described

25

~~**waterecourse** means a waterecourse that is part of, or related to, the drainage or discharge of stormwater by a stormwater network~~

**wastewater network** means the infrastructure and processes that ~~are~~ is—

(a) used to provide a wastewater service; and

(b) owned by, or operated by, for, or on behalf of, a water service provider

30

**wastewater services** means the collection, treatment, storage, transmission (including metering), or discharge of wastewater from consumers—

(a) ~~means the collection, treatment (including of biosolids), storage, transmission through reticulation, reuse, or discharge of wastewater; and~~

35

(b) ~~includes a service relating to~~—

(i) ~~the consumer connection (including laterals connecting from the customer's property to the wastewater network); and~~

~~(ii) outfalls, land disposal areas, planting, or wetlands~~

**water organisation** means—

- (a) a water organisation established under **section 36**; or
- (b) a council-controlled organisation that,—
  - (i) immediately before the commencement of this Act (the **commencement date**), was providing water services or had been established for the purpose of providing water services; and 5
  - (ii) intends ~~to continue~~ to provide water services on and after the commencement date; and
  - (iii) after 6 months after the commencement date, complies with the following (unless exempted by an order made under **section 57**): 10
    - (A) the requirement that a water organisation be a company, unless exempted, as set out in **section 37(1)**;
    - (B) the ownership requirements for water organisations set out in **section 37(2)(a) or (b)**: 15
    - (C) the role requirement set out in **section 38**;
    - (D) applicable requirements of board members set out in **section 40**; or
- (c) an Auckland water organisation in relation to—
  - (i) its responsibilities for water supply and wastewater services, as defined in section 4(1) of the Local Government (Auckland Council) Act 2009, in Auckland; and 20
  - (ii) any other water services, if responsibilities are transferred by Auckland Council to an Auckland water organisation using a transfer agreement under **section 11 or 13** of this Act 25

**water service provider (or provider)** means—

- (a) a territorial authority that has not transferred all of its responsibility for providing water services; or
- (b) a water organisation to which a territorial authority has transferred responsibility for providing ~~the provision of~~ water services; or 30
- (c) a regional council that ~~provides~~ has not transferred all of its responsibility for providing water services; or
- (d) an Auckland water organisation in relation to—
  - (i) its responsibilities for water supply and wastewater services, as defined in section 4(1) of the Local Government (Auckland Council) Act 2009, in Auckland; and 35
  - (ii) any other water services, if responsibilities are transferred by Auckland Council to an Auckland water organisation using a transfer agreement under **section 11 or 13** of this Act

**water services** means any or all of the following:

- (a) water supply services:
- (b) stormwater services:
- (c) wastewater services

**water services activity** means a good or service provided by, or on behalf of, a water service provider as part of providing water services in the provider's service area 5

**water services annual budget** has the meaning set out in **section 180**

**water services annual report** has the meaning set out in **section 180**

**Water Services Authority** means the Water Services Authority—Taumata Arowai established by section 8 of the **Water Services Authority—Taumata Arowai Act 2020** 10

**water services bylaw** means a bylaw made under **section 347** that relates to water services

**water services charges** means charges set under **section 60** 15

~~**water services infrastructure** means infrastructure associated with, or necessary for, the provision of water services —~~

- ~~(a) means infrastructure that is associated with, or necessary for, providing water services; and~~
- ~~(b) includes the capability and capacity of that infrastructure to perform necessary processes, including the processes of attenuation, treatment, and conveyance of water~~ 20

~~**water services networks**; means the following networks in a territorial authority's district or a water service provider's service area —:~~

- ~~(a) the water supply networks network:~~ 25
- ~~(b) the stormwater networks network:~~
- ~~(c) the wastewater networks network~~

**water services strategy** has the meaning set out in **section 180**

**water supply network** means the infrastructure and processes that are—

- (a) used to provide a water supply service; and 30
- (b) owned by, or operated by, for, or on behalf of, a water service provider

**water supply service** means the abstraction, storage, treatment, or transmission (including metering) of water for supply to consumers if any of the water supplied is intended to be used as drinking water —

- ~~(a) means the abstraction, storage, treatment, or transmission of drinking water for supply to — 35~~
  - ~~(i) consumers; or~~
  - ~~(ii) a drinking water supplier; and~~

- (b) ~~includes—~~
- (i) ~~a service provided at any point in the supply, including at an end-point treatment device and a back flow prevention device; and~~
  - (ii) ~~a service that is linked to a water supply network and relates to catchments (including land, fencing, and planting) and upstream storage; and~~ 5
  - (iii) ~~firefighting water supplies (within the meaning of the Fire and Emergency New Zealand Act 2017), if those supplies are also used for drinking water; and~~
  - (iv) ~~a service provided by means of reticulated water supply, water works, and fixed bulk water supply systems~~ 10

**watercourse** includes a river, stream, passage, and channel on or under the ground, whether natural or not, ~~— along which water flows, whether continuously or intermittently~~

- (a) along which water flows continuously; and 15
- (b) that receives stormwater from, or discharges stormwater to, a stormwater network.

~~**waterworks**, in relation to a water supply service, includes—~~

- (a) ~~rivers, streams, lakes, waters, and underground waters, and rights relating to those; and~~ 20
- (b) ~~land, watershed, catchment, and water collection areas; and~~
- (c) ~~if owned, constructed, or operated by a water service provider,—~~
  - (i) ~~reservoirs, dams, bores, tanks, and pipes; and~~
  - (ii) ~~associated buildings, machinery, and appliances.~~

## 5 Transitional, savings, and related provisions 25

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

## 6 Act binds the Crown

- (1) This Act binds the Crown.
- (2) ~~This section is subject to **section 109**.~~ 30
- (2) However, **section 109** partially exempts the Crown from making development contributions under **subpart 2 of Part 3**.

## 6A All persons must act consistently with Treaty settlement obligations

All persons performing and exercising functions, duties, and powers under this Act must act in a manner that is consistent with Treaty settlement obligations. 35

## Part 2

### Structural arrangements for providing water services

#### 7 Outline of this Part

- (1) This Part provides for ~~a number of~~ matters concerning the structural arrangements for providing ~~the provision of~~ water services. 5
- (2) **Subpart 1** provides for territorial authorities' responsibility for providing the provision of water services in their districts and the different methods ~~by which~~ they can use to structure service provision arrangements, including—
- (a) the key role of water organisations as being, along with territorial authorities, water service providers; and 10
  - (b) how territorial authorities can transfer responsibilities, infrastructure, and other matters ~~can be transferred~~ to water organisations; and
  - (c) the objectives, financial principles, and obligations of water service providers; and
  - (d) how water service providers can contract for ~~the provision of~~ water services to be provided on their behalf or enter into joint arrangements with other water service providers; and 15
  - (e) the decision-making process that must be followed by a territorial authority that proposes to ~~make a change to~~ the structure of water services provision. 20
- (3) **Subpart 2** provides, for those regions in which the regional council also provides water services, the different methods they can use to structure service provision arrangements ~~ways in which the council may do so~~.
- (4) **Subpart 3** provides for the establishment, ownership (including by the trustees of consumer trusts on behalf of consumers of water services), and governance of water organisations that, together with local authorities, are water service providers under this Act. 25
- (5) **Subpart 4** provides for the power of a water service provider to enter land and ~~carry out work in relation to water services infrastructure, including—~~
- (a) ~~notification requirements; and~~ 30
  - (b) ~~access and work that requires the owner's consent; and~~
  - (c) ~~the owner's ability to impose conditions; and~~
  - (d) ~~the resolution of disputes about consent and conditions; and~~
  - (e) ~~special requirements that relate to Māori land; and~~
  - (f) ~~requirements for access and work on roads.~~ 35

## Subpart 1—Responsibility for providing water services

*Territorial authority's responsibility***8 Territorial authority responsible for providing water services**

- (1) A territorial authority is responsible for ensuring that water services are provided in its district in accordance with this Act. 5
- (2) However, a territorial authority may ~~transfer responsibility for providing water services to a water organisation~~ discharge its responsibility under **subsection (1)** by entering into a transfer agreement with the a water organisation.
- (3) Despite **subsection (1)**, no person may require a territorial authority or water organisation to provide a water service to that person. 10

**9 How territorial authority ~~provides~~ ensures water services provided**

- (1) A territorial authority must ensure that water services are provided in its district in any 1 or more of the following ways:
- (a) providing water services itself directly;
- (b) a transfer agreement to transfer responsibility for providing water services to a water organisation (*see **section 11***): 15
- (c) a contract with a person or body to provide water services on behalf of the territorial authority (*see **section 21***);
- (d) a joint water service provider arrangement (*see **section 24***);
- (e) ~~becoming a shareholder in a water organisation established by another territorial authority (*see **section 36***):~~ 20
- (da) by an Auckland water organisation (if applicable):
- (f) another type of arrangement that is consistent with this Act, including receiving a transfer of responsibility for the provision of water services from the regional council (*see **section 33***). 25
- (2) A territorial authority may use a method ~~different means~~ listed in **subsection (1)** for providing—
- (a) 1 or more different water services; or
- (b) any or all different aspects of a water service.
- (3) **Subsection (4)** applies to a territorial authority that enters into a contract or an arrangement under **subsection (1)(c), (d), or (f)**. 30
- (4) The territorial authority—
- (a) continues to be responsible, as the water service provider under this Act, for ensuring the provision of the water services to which the contract or arrangement relates; and 35
- (b) must ensure that the other party to the contract or arrangement performs and exercises all regulatory requirements ~~the statutory functions, duties,~~

~~and powers~~ associated with providing the water services to which the contract or arrangement relates.

## 10 Exception: transport corridors

- (1) This section applies to a territorial authority that is also a corridor manager in relation to 1 or more roads in its district. 5
- (2) The territorial authority must ensure that any agreement, contract, or arrangement referred to in **section 9(1)** does not transfer to any person or body the authority's ownership or control of any transport corridor stormwater infrastructure.—
- (a) ~~the authority's ownership or control of any transport corridor stormwater infrastructure; or~~ 10
- (b) ~~any of the authority's responsibility for the operation of transport corridor stormwater infrastructure.~~
- (3) ~~In this section,~~—
- ~~corridor manager~~ has the meaning set out in section 4 of the Utilities Access Act 2010 15
- ~~transport corridor stormwater infrastructure~~ means infrastructure that—
- (a) ~~relates to the transport function of a transport corridor managed by the territorial authority; and~~
- (b) ~~is used to collect, treat, drain, reuse, or discharge stormwater.~~ 20

*Transfer of responsibilities, etc, to water organisation*

## 11 Transfer agreement with water organisation

- (1) This section applies to a territorial authority that intends to transfer responsibility for providing water services to a water organisation.
- (2) The authority must enter into a transfer agreement with ~~a~~ the water organisation ~~by means of~~ under which the authority transfers to the organisation— 25
- (a) specified responsibility for providing water services; and
- (b) any specified infrastructure, related assets, and other matters.
- (3) A territorial authority may enter into a transfer agreement with a water organisation— 30
- (a) that the authority has established; or
- (b) in which it is a shareholder.
- (4) A territorial authority that enters into a transfer agreement must adopt the agreement by resolution.
- (5) If ~~more than 1 territorial authority has~~ 2 or more territorial authorities have established the water organisation,— 35

- (a) one of those authorities must not enter into a transfer agreement unless both or all of them do; and
- (b) those transfer agreements must be developed and entered into separately.
- (6) A transfer agreement must contain the matters set out in **Schedule 2**.
- (7) Despite **subsection (6)** and **Schedule 2**, any matter that a transfer agreement does not specify as being transferred is taken to be retained by the territorial authority. 5
- (8) A transfer agreement must not contain a provision that transfers any of the following:
- (a) the territorial authority’s power to make bylaws under this Act: 10
- (b) the territorial authority’s role as a shareholder of a water organisation:
- (c) the authority’s power to delegate a responsibility, function, duty, or power under the LGA 2002.
- 11A Territorial authority’s actions before entering transfer agreement**
- (1) A territorial authority must comply with this section before adopting a transfer agreement under **section 11(4)**. 15
- (2) A territorial authority must—
- (a) discuss and reach agreement with the following in relation to the significant matters to be contained in the proposed transfer agreement:
- (i) the board of the water organisation: 20
- (ii) 1 or more other appropriate representatives of the water organisation if the board has not yet been appointed or its members have not yet taken up their role as directors; and
- (b) establish and use a process for—
- (i) resolving any disputes that might arise in discussions under this section; and 25
- (ii) confirming the final version of the proposed transfer agreement with a representative of the water organisation.
- (3) **Subsection (4)** applies if 2 or more territorial authorities—
- (a) have established (or are in the process of establishing) a water organisation; or 30
- (b) are, or intend to be, shareholders in a newly established water organisation.
- (4) Despite **section 11(5)(b)**, the territorial authorities must—
- (a) discuss and reach agreement with each other on the significant matters to be contained in their respective agreements; and 35

- (b) agree on a common date on which those transfer agreements will take effect (which may be on or after the date on which the final transfer agreement is entered into); and
- (c) prepare foundation documents for the water organisation.

## 12 Purpose and effect of transfer agreement

5

- (1) The purpose of a transfer agreement is to ensure that the effect of the agreement (the matters that are transferred and the matters that are not transferred)—

(a) is transparent to—

(i) ~~the local authorities that are parties~~ territorial authority that is party to the agreement; and

10

(ii) the board of the water organisation; and

(b) can be readily ascertained by the public.

- (2) The effect of a transfer agreement that transfers responsibility for providing water services is that the water organisation that is a party to the agreement ~~becomes~~ replaces the territorial authority as the water service provider in relation to those services.

15

- (3) Schedule 9 of the LGA 2002 applies, ~~with any necessary modifications,~~ to a transfer agreement as follows:-

(a) for a transfer from a territorial authority to a water organisation, the schedule applies, with any necessary modifications, as if every reference to a council-controlled organisation were a reference to a water organisation:

20

(b) for a transfer from a water organisation returning matters to a territorial authority under **section 13(1)(b)**, the schedule applies, with any necessary modifications, as if—

25

(i) every reference to a council-controlled organisation were a reference to a water organisation; and

(ii) every reference to a local authority were a reference to a territorial authority.

## 13 ~~Circumstances that require~~ When new transfer agreement required

30

- (1) A territorial authority that has ~~established, and~~ entered into a transfer agreement with a water organisation must develop and enter into a new transfer agreement if the territorial authority decides—

(a) to transfer additional responsibilities, infrastructure, or other matters to the water organisation; or

35

(b) that any responsibilities, infrastructure, or other matters transferred to the water organisation are to be returned to the authority; or

- (ba) to change, or to propose to change, any of the following in a transfer agreement:
- (i) matters of shared interest or arrangements for managing them (see **clause 5 of Schedule 2**):
  - (ii) arrangements for charging and revenue collection for the water services transferred (see **clause 6 of Schedule 2**): 5
  - (iii) responsible decision makers under **clause 7 of Schedule 2**; or
- (c) to cease to be a shareholder in the water organisation ~~(if applicable)~~; or
- (d) to disestablish the water organisation ~~(if applicable)~~; or
- (e) to establish or become a shareholder in a further water organisation. 10
- Process and limitations*
- (2) Before entering into a new transfer agreement, a territorial authority must—
- (a) consider any relevant provision in the water organisation’s foundation documents ~~foundational documents, including its constitution and shareholder agreements~~; and 15
  - (b) discuss and reach agreement on all relevant matters with—
    - (i) the board of the water organisation; and
    - (ii) all shareholders in the water organisation.
- (3) If there are shareholders in a water organisation other than the territorial authority that established it, that authority may enter into a transfer agreement referred to in **subsection (1)(c) or (d)** only if all those shareholders agree. 20
- (4) If a territorial authority makes a decision referred to in **subsection (1)(c) or (d), (d), or (e)**, the new transfer agreement must return to the authority all responsibilities, infrastructure, and other matters previously transferred to the water organisation. 25
- (4A) If a territorial authority makes a decision referred to in **subsection (1)(e)**, the new transfer agreement—
- (a) must return to the authority all responsibilities, infrastructure, and other matters that are to be transferred to the further water organisation; but
  - (b) if all parties agree, may transfer those responsibilities, infrastructure, and other matters directly to the further water organisation. 30
- (5) A territorial authority that makes a decision referred to in **subsection (1)(e)** must enter into a new transfer agreement with the new water organisation.
- (6) A new transfer agreement must—
- (a) be adopted by the territorial authority by resolution; and 35
  - (b) contain the matters set out in **Schedule 2**—
    - (i) to the extent that those matters are relevant to the type of transfer agreement; and

- (ii) modified as necessary.
- (7) Despite **subsection (6)(b)** and **Schedule 2**, any matter that a transfer agreement does not specify as being transferred is taken to be retained by the territorial authority.
- (8) **Section 11A** applies, with any necessary modifications, to a new transfer agreement under this section. 5

#### 14 Transfer agreements to be published

- (1) ~~All parties~~ Each party to a transfer agreement must ~~publish~~ make the agreement publicly available ~~on internet sites that are maintained by the parties or on their behalf.~~ 10
- (2) If the transfer agreement contains information that is commercially sensitive, the parties may redact that information from the published ~~version~~ versions of the agreement.

#### *Water service providers*

#### 15 Objectives of water service providers 15

- (1) The objectives of a water service provider are—
- (a) to provide water services that—
- (i) ~~provide safe drinking water to consumers; and~~
  - (ii) ~~do not have adverse effects on the environment; and~~
  - (iii) are reliable; and 20
  - (iv) are resilient to external factors, for example, climate change and natural hazards; and
  - (v) are of a quality that meets consumer expectations; and
  - (vi) meet all ~~applicable~~ regulatory standards and requirements, including, if the water service provider is responsible for water supply services, providing drinking water that is safe for consumers; and 25
- (b) to ensure that it provides water services in a cost-effective and financially sustainable manner, including by—
- (i) planning effectively to manage assets used to provide water services in the future; and 30
  - (ii) sharing the benefits of efficiency gains with consumers, including when setting charges for water services; and
  - (iii) using water resources efficiently when providing water supply services; and
- (c) to perform its functions as a water service provider— 35
- (i) in an open, transparent, and accountable manner; and
  - (ii) in accordance with sound business practice; and

- (d) to act in the best interests of current and future consumers; and
- (da) to support housing growth and, if applicable, urban development in its service area; and
- (e) to be a good employer.
- (2) In **subsection (1)**,— 5
- good employer** has the same meaning as in clause 36(2) of Schedule 7 of the LGA 2002 and applies to a water organisation as if it were a local authority
- natural hazard** has the meaning set out in section 2(1) of the Resource Management Act 1991
- safe** has the meaning set out in section 7 of the Water Services Act 2021 10
- urban development** has the meaning set out in section 10(1) of the Urban Development Act 2020.
- 16 Financial principles for water service providers**
- (1) A water service provider must act in accordance with the following financial principles: 15
- (a) the provider must spend the revenue it receives from, and funding it receives for, providing water services on ~~providing the water services it provides~~ (including on maintenance, improvements, infrastructure renewal, servicing debt relating to the services it provides, and providing for growth): 20
- (b) the provider must ensure that the revenue and funding it applies to ~~providing the provision of~~ water services is sufficient to sustain the provider's long-term investment in ~~the provision of its~~ water services while meeting all regulatory requirements:
- (c) the provider's revenue and funding (including from charges) ~~and~~ expenses, and dividends (if applicable) must be transparent to the public: 25
- (d) the provider must be accountable for its revenue and funding and expenses,—
- (i) if it is a territorial authority, to its communities; or
- (ii) if it is a water organisation, to its shareholders. 30
- (2) A water service provider must demonstrate its compliance with the financial principles listed in **subsection (1)**—
- (a) in its financial operations and financial policies; and
- (b) in its planning and reporting documents prepared under **Part 4** (listed in **section 183(2)**); and 35
- (ba) if the provider is a territorial authority,—
- (i) in any transfer agreement it enters into; and

- (ii) in documents relating to a proposal to establish a water organisation; and
- (c) if the provider is a local authority, in its financial strategy prepared and adopted under section 101A of the LGA 2002.
- (3) If a water service provider is a water organisation that is authorised by its shareholders to pay a dividend,— 5
- (a) the financial principle stated in **subsection (1)(a)** does not apply to the payment of the dividend; but
- (b) the organisation must not pay a dividend amount that could compromise its ability to act in accordance with the financial principle set out in **subsection (1)(b)**. 10
- (4) **Subsections (1) and (2)** apply to the following water service providers jointly:
- (a) 2 or more water service providers that enter into a joint water service provider arrangement under **section 24**; 15
- (b) 2 or more water service providers that provide water services in accordance with a split decision-making model under **subpart 12 of Part 4** of the Commerce Act 1986.
- 17 Obligation to continue water services**
- (1AAA) This section applies to a water service provider that provides water services in its service area— 20
- (a) at the commencement of this Act; or
- (b) at any time after the commencement of this Act.
- (1) A water service provider ~~that provides water services in its service area~~ must—
- (a) continue to provide water services in accordance with this Act; and 25
- (b) maintain its capacity to meet its obligations under this Act.
- (2) However, in fulfilling those obligations, a water service provider—
- (a) must also ensure the supply of drinking water if the provider permanently takes over the management and operations of a drinking water supply under ~~**section 58E**~~ **section 20**; and 30
- (b) may enter into a contract or a joint water service provider arrangement relating to providing ~~the provision of~~ water services under **section 21 or 24**; ~~and but~~
- (c) must comply with ~~**section 18**~~ **subsection (3)**.
- (3) This section does not prevent a water service provider from— 35
- (a) entering into a transfer agreement under **section 11 or 13**; or

- (b) closing down or transferring a small water service in accordance with **sections 58F to 58H.**

Compare: 2002 No 84 s 130

*Limitations on transfer agreements, contracts, and joint arrangements*

- 18 General duty to retain ownership of infrastructure, etc** 5
- (1) A water service provider must not—
- (a) use the assets of its water services networks as security for any purpose; or
- (b) transfer its ownership of water services infrastructure or of any other interest in a water service; or 10
- (c) lose control of, sell, or otherwise dispose of the significant water services infrastructure necessary for providing water services in its service area, unless it retains its capacity to meet its obligations; or
- (d) in relation to a property to which the provider supplies water,—
- (i) restrict the water supply, unless ~~section 193 of the LGA 2002 or new provision of this Act~~ **section 178A** applies; or 15
- (ii) stop the water supply unless section 25 of the Water Services Act 2021 applies.
- (2) Despite **subsection (1)(a)**, a water service provider may use a charge or rate that relates to providing the provision of water services as security. 20
- (3) Despite **subsection (1)(b) and (c)**, a water service provider may ~~transfer its ownership or interest to another water service provider if the transfer take any~~ of the actions set out in either or both of those paragraphs if the action is a necessary part of any of the following arrangements with that other provider:
- (a) if the water service provider transferring the ownership or interest is a territorial authority, a transfer agreement under **section 11 or 13:** 25
- (b) a contract under **section 21:**
- (c) a joint water service provider arrangement under **section 24.**
- (4) A water service provider that is a water organisation must ensure that any action taken under **subsection (3)** is in accordance with— 30
- (a) its foundation documents; and
- (b) any transfer agreement to which the water organisation is a party.
- 19 Franchises and concession agreements prohibited**
- (1) A ~~transfer agreement, a contract under **section 21**, or any other a joint water service provider arrangement under **section 24**~~ entered into by a water service provider in relation to providing the provision of water services must not be a franchise or concession agreement. 35

- (2) In this section, **franchise or concession agreement**, in relation to providing the provision of water services, means an agreement under which the party with which ~~whom~~ the water service provider ~~contracts~~ engages is entitled to receive a payment from a person other than the water service provider for providing ~~the provision of~~ the water services. 5

*~~Water supply ensured if supplier facing significant problem, etc~~*

**20 ~~Provider to ensure water supply when existing supplier facing significant problem, etc~~**

- (1) ~~This section applies if—~~
- (a) ~~a water service provider—~~ 10
- (i) ~~becomes aware that a drinking water supplier is facing a significant problem or significant potential problem in relation to drinking water supply; and~~
- (ii) ~~notifies the Water Services Authority of the provider’s concerns and discusses them with the Authority; or~~ 15
- (b) ~~the Authority requires the water service provider to take action under this section.~~
- (2) ~~The water service provider must, as the circumstances allow and within a time frame determined by the Authority,—~~
- (a) ~~work collaboratively with the supplier, the consumers of the supply, and the Water Services Authority to identify 1 or more of the following:~~ 20
- (i) ~~an immediate solution to the problem;~~
- (ii) ~~a temporary solution to the problem;~~
- (iii) ~~a permanent solution to the problem; and~~
- (b) ~~ensure that drinking water is supplied to the affected consumers on a temporary or permanent basis if—~~ 25
- (i) ~~the supplier is unable to continue to provide a supply that meets the requirements under the Water Services Act 2021; and~~
- (ii) ~~an alternative solution is not readily available, or cannot be agreed by the parties involved within the time frame determined by the Authority.~~ 30
- (3) ~~In complying with **subsection (2)**, the water service provider may consider a range of options, including—~~
- (a) ~~temporarily taking over the management and operations of the drinking water supply; and~~ 35
- (b) ~~permanently taking over the management and operations of the drinking water supply; and~~
- (c) ~~ensuring that drinking water continues to be provided by other means.~~

- (4) ~~The water service provider is not required to provide the supply by means of a reticulated network.~~
- (5) ~~If a water service provider permanently takes over the management and operations of a drinking water supply, the provider, the Water Services Authority, the former supplier, and the affected consumers must work together to determine how to deal with—~~ 5
- (a) ~~any assets and liabilities of the service taken over; and~~
- (b) ~~any legal or other issues that may affect the provider’s ability to manage and operate the drinking water supply service, such as access to the land on, or beneath which, assets are situated; and~~ 10
- (c) ~~how the provider will be compensated for costs incurred in taking over responsibility for the service.~~
- (6) ~~A water service provider referred to in **subsection (5)**—~~
- (a) ~~may—~~
- (i) ~~charge for any drinking water services it provides to affected consumers; and~~ 15
- (ii) ~~recover its costs from the previous supplier; but~~
- (b) ~~when making decisions about future charges and funding arrangements, must—~~
- (i) ~~take reasonable steps to ascertain and consider the financial circumstances facing the affected consumers; and~~ 20
- (ii) ~~consider the range of available funding sources; and~~
- (iii) ~~on request, demonstrate that it has considered the matters referred to in **subparagraphs (i) and (ii)**.~~
- (7) ~~In this section,—~~ 25
- drinking water supplier**
- (a) ~~means a drinking water supplier within the meaning of section 8 of the Water Services Act 2021, but~~
- (b) ~~does not include a water service provider~~
- significant problem or significant potential problem means—** 30
- (a) ~~a drinking water supplier has persistently failed to comply with the requirements under the Water Services Act 2021; or~~
- (b) ~~there is a serious risk to public health from the supply provided by a drinking water supplier; or~~
- (c) ~~a drinking water supplier—~~ 35
- (i) ~~has ceased to operate a drinking water supply; or~~

- (ii) ~~is, in the Water Services Authority's opinion, likely to cease operating a supply.~~

Compare: 2002 No 84 s 127

### *Contracting for providing water services*

- 21 Contracts for providing water services** 5
- (1) A water service provider may enter into a contract with a person or body for the performance of any aspect of providing a water service on behalf of the water service provider ~~for a term not longer than 50 years.~~
- (2) A water service provider ~~who~~ that enters into a contract under this section—
- (a) continues to be the water service provider responsible for the water service ~~services~~ to which the contract relates; and 10
- (b) retains control over—
- (i) the development of policy for providing the relevant water service ~~services~~; and
- (ii) the pricing of the relevant water service ~~services~~. 15
- (2A) A contract entered into under this section must be for a term no longer than 50 years.
- (3) ~~A **Subsections (2) and (2A)** do not apply if the contract is between the water service provider and another water service provider, unless the parties state otherwise in the contract is not limited by **subsection (2)** or the 50 years maximum term in **subsection (4)**.~~ 20
- (4) A contract entered into by a water service provider is not a contract permitted by this section merely because the water service provider agrees to any 1 or more of the following actions under the Infrastructure Funding and Financing Act 2020: 25
- (a) to propose the use of a levy to support constructing ~~the construction of~~ eligible infrastructure;
- (b) to carry out any aspect of administering ~~the administration of~~ a levy;
- (c) the vesting of eligible infrastructure;
- (d) to contribute to the construction costs of the eligible infrastructure. 30
- Compare: 2002 No 84 s 136
- 22 Obligations before entering into contracts**
- All contracts*
- (1) When considering and negotiating a contract under **section 21**, a water service provider must ~~consider~~— 35
- (aaa) determine whether the proposed contract is a significant contract under **section 23**; and

- (a) consider all current and anticipated future regulatory requirements in relation to the water services to which the proposed contract relates; and
- (b) consider whether the contract should provide for compliance with those requirements.
- Significant contracts* 5
- (2) Before entering into a contract that a provider determines to be a significant contract ~~under section 23~~, it must,—
- (a) ~~if it is a territorial authority~~, undertake options assessment and consultation in accordance with **sections 26 to 28**; and
- (b) if it is a water organisation, also consult its shareholders and obtain their approval of the proposed contract. 10
- (3) Before entering into a contract that a provider determines to be a significant contract because it will create a public-private partnership, a water service provider must, in addition,—
- (a) have regard to any relevant procurement rules and guidance issued by central government; and 15
- (b) obtain advice from—
- (i) any central government agency whose role includes advising on public-private partnerships (if its role is applicable to water service providers); or 20
- (ii) appropriate experts in the private sector.
- (4) In this section and **section 23**, **public-private partnership** means a long-term contract for ~~delivering a delivery of a~~ water service, where—
- (a) ~~providing provision of~~ the service requires ~~constructing the construction of~~ a new infrastructure asset or enhancing the enhancement of an existing infrastructure asset; and 25
- (b) the construction or enhancement is financed from external sources on a non-recourse basis; and
- (c) the water service provider acquires or retains full ownership of the infrastructure asset. 30
- 23 Significant contract requirements**
- ~~(1) This section applies in relation to contracts under section 21 that the water service provider determines to be significant contracts.~~
- (1) For the purposes of section 22(2) and (3), a water service provider must determine whether a proposed contract is a significant contract in accordance with the provider's significance and engagement policy. 35
- ~~(2) The water service provider must adopt a policy setting out all matters that the provider will consider in determining whether a proposed contract is a significant contract, including—~~

- (a) ~~whether the proposed contract is of high value relative to the revenue that the provider receives from providing the water services to which the contract relates; and~~
- (b) ~~whether the proposed contract will create a public-private partnership; and~~ 5
- (c) ~~all matters that are essential to the provider's ability to meet its obligations under this Act in relation to the water services to which the contract relates; and~~
- (d) ~~relevant thresholds and criteria.~~
- (3) ~~In addition,—~~ 10
- (a) ~~a provider that is a territorial authority must include the policy in the significance and engagement policy it adopts under section 76AA of the Local Government Act 2002; and~~
- (b) ~~a provider that is a water organisation must consult its shareholders and incorporate their directions and expectations in the policy.~~ 15
- (4) After entering into a significant contract, the provider must ensure that its water services annual report—
- (a) specifies the performance indicators that the provider is using to monitor and assess the performance of the contracted party; and
- (b) sets out how the contracted party has performed against those indicators during the relevant period. 20
- Interaction with significance and engagement policy*
- (5) The provider must ensure that its significance and engagement policy addresses all matters necessary for determining—
- (a) whether a proposed contract under **section 21** is a significant contract; and 25
- (b) how to undertake engagement in relation to proposed significant contracts in a way that is consistent with **sections 27 and 28**.
- (6) Without limiting **subsection (5)**, the significance and engagement policy must contain all criteria needed for determining whether a proposed contract is a significant contract, and those criteria must include— 30
- (a) whether the proposed contract is of high value relative to the revenue that the provider receives from providing the water service to which the contract relates; and
- (b) whether the proposed contract will create a public-private partnership; and 35
- (c) all matters that are essential to the provider's ability to meet its obligations under this Act in relation to the water service to which the contract relates; and

- (d) any relevant thresholds (for example, the value of the contract).
- (7) If the provider is a water organisation, it must obtain its shareholders' approval of the way in which the organisation proposes to comply with **subsection (5)**.

### **23A Third party to give information to water service provider on request**

- (1) This section applies if a water service provider has entered into an agreement or arrangement of any kind with a person or body (the **third party**) for the third party to provide water services on behalf of the water service provider. 5
- (2) The water service provider may ask the third party for information relating to the provision of water services under the agreement or arrangement.
- (3) The information requested must be information that the water service provider needs in order to meet regulatory requirements relating to the water services covered by the agreement or arrangement. 10
- (4) The third party must provide the information requested as soon as is reasonably practicable.
- (5) However, the third party is not required to provide information that— 15
- (a) is commercially sensitive; and
- (b) could disadvantage the third party in future negotiations for entering into an agreement or arrangement with a water service provider.
- (6) The third party may recover from the provider the reasonable costs that the third party incurs in providing information requested under this section. 20

#### *Joint arrangements for providing water services*

### **24 Joint water service provider arrangements**

- (1) A water service provider may enter into a joint water service provider arrangement with 1 or more other water service providers, including providers operating outside the ~~district~~ service area in which the first provider ~~operates~~ is operating. 25
- (1A) When considering and negotiating a joint water service provider arrangement, a water service provider must consider whether the proposed arrangement is a significant service provider arrangement under the provider's significance and engagement policy. 30

#### *Significant joint water service provider arrangements*

- (2) Before entering into a proposed arrangement that a water service provider determines to be a significant joint water service arrangement, the provider must—
- (a) ~~if it is a territorial authority,~~ undertake options assessment and consultation in accordance with **sections 26 to 28**: 35
- (b) if it is a water organisation, also consult its shareholders and obtain their approval of the proposed arrangement.

- (3) ~~In this section and **sections 25 and 32**, joint water service provider arrangement means an arrangement entered into by 2 or more water service providers for the purpose of providing 1 or more of the following:~~
- (a) ~~water services or any aspect of water services in the providers' combined service areas:~~ 5
  - (b) ~~any matters relating to the provision of water services (for example, a shared service agreement for technical or administrative support).~~

*Role of significance and engagement policy*

- (4) The provider must ensure that its significance and engagement policy addresses all matters necessary for determining— 10
- (a) whether a proposed joint water service provider arrangement is a significant joint water service provider arrangement; and
  - (b) how to undertake engagement in relation to a proposed significant joint water service provider arrangement in a way that is consistent with **sections 27 and 28**. 15

Compare: 2002 No 84 s 137

*Decision making by territorial authorities* *Decisions about structural arrangements*

**25 Application**

- (1) This section and **sections 26 to 29** ~~sections 26 to 30~~ apply to a territorial authority that proposes to make a structural change to the provision of water services in its district by doing ~~any~~ 1 or more of the following (**change proposal**): 20
- (a) establishing a water organisation:
  - (b) becoming a shareholder in a water organisation established by the territorial authority or by another territorial authority ~~in the same region:~~ 25
  - (c) disestablishing, or changing the shareholding arrangements in, a water organisation ~~that in which the territorial authority has established~~ is a shareholder:
  - (ca) transferring responsibility for providing water services to a water organisation (or receiving a transfer back from a water organisation), including by a transfer agreement under **section 11 or 13**: 30
  - (d) entering into a ~~significant~~ contract under **section 21** that the territorial authority determines to be a significant contract:
  - (e) entering into a joint water service provider arrangement under **section 24** that the territorial authority determines under that section to be a significant joint water service provider arrangement. 35

*Duty of territorial authorities*

- (2) The territorial authority must act in accordance with **sections 26 to 28**~~sections 26 to 30~~ in relation to its change proposal~~proposals~~.
- (3) If the territorial authority proposes a change under **subsection (1)(b) or (c)**, all other territorial authorities that are shareholders in the relevant water organisation must act in accordance with **sections 26 to 28**~~sections 26 to 30~~.
- (4) For the purposes of **sections 26 to 29**~~sections 26 to 30~~, a territorial authority may have regard not only to impacts in its own district but also, if the proposal involves another territorial authority, to impacts in any collective area involved in the change proposal.

*Change proposal by water organisation*

- (4A) Subsections (4B) to (4D)** apply if a water organisation is considering a change proposal that involves the organisation entering into—
- (a) a contract under section 21 that the organisation determines to be a significant contract; or
- (b) a joint water service provider arrangement under section 24 that the organisation determines to be a significant joint water service provider arrangement.
- (4B)** The water organisation must act in accordance with sections 26 to 28 if—
- (a) none of its shareholders is a territorial authority; or
- (b) its shareholders direct the organisation to manage the proposal.
- (4C)** A territorial authority that is a shareholder in the water organisation must act in accordance with sections 26 to 28 if the organisation’s shareholders are managing the proposal.
- (4D)** For the purposes of subsection (4B), the water organisation must act in accordance with sections 26 to 28 as if it were a territorial authority (and those sections apply accordingly with all necessary modifications).

*Application of LGA 2002 to change proposals*

- (5) ~~Sections 56(1), 76, 77(1)(a) and (b), and 82A(2) of the LGA 2002 do not apply to a change proposal.~~
- (6) ~~However, all other relevant requirements in the LGA 2002 apply to a change proposal. For example, the requirements in sections 77(1)(c), 81, and 82 of the LGA 2002 continue to apply.~~
- (7) ~~In the event of any inconsistency arising between any of the requirement under sections 26 to 30 and the corresponding alternative requirements in Part 3 of the Local Government (Water Services Preliminary Arrangements) Act 2024, the requirements of sections 26 to 30 prevail to the extent of the inconsistency.~~
- (8) ~~In this section~~ **subsection (4)** and **sections 28 and 29**, collective area means,—

- (a) in relation to a change proposal referred to in **subsection (1)(a), (b), or (c)**, the combined districts of the territorial authorities that establish the water organisation or are shareholders in it; and
- (b) in relation to a change proposal referred to in **subsection (1)(d) or (e)**, the combined districts of the territorial authorities that are party to the contract or arrangement. 5

## **25A Interaction of sections 26 to 29 with other legislation**

### LGA 2002

- (1) Sections 56, 77, and 82A(2) of the LGA 2002 do not apply to a territorial authority that makes a change proposal. 10
- (2) However, all other relevant requirements in the LGA 2002 apply to a territorial authority that makes a change proposal. For example, the requirements in sections 81 and 82 of the LGA 2002 continue to apply.

### Local Government (Water Services Preliminary Arrangements) Act 2024

- (3) This section, **section 25**, and **sections 26 to 29** apply to any decision making and consultation by a territorial authority in relation to a change proposal that occur after a water services delivery plan submitted by the authority has been accepted by the Secretary for Local Government under section 20 of the Local Government (Water Services Preliminary Arrangements) Act 2024. 15
- (4) Alternative requirements under Part 3 of the Local Government (Water Services Preliminary Arrangements) Act 2024— 20
- (a) apply to any decision making and consultation by the authority that occur before the acceptance of its water services delivery plan; but
- (b) do not apply after the date of that acceptance, including in relation to amendments to the plan made under section 23 of that Act. 25

## **26 Identification and assessment of options**

- (1) The territorial authority must identify and assess a range of options for ways of achieving the ~~end intended to be achieved by the~~ objective of a change proposal, including—
- (a) the existing approach to providing water services in its district; and 30
- (b) the change proposal; and
- (c) at least 1 further reasonably practicable option, if available.
- (2) If, after identifying and assessing options, the authority proposes to take no action, it must treat that proposal as a change proposal for the purposes of—
- (a) consultation under **sections 27 and 28**; and 35
- (b) considering matters under **section 29**.
- (3) If any of the options identified under **subsection (1)** involve a significant decision in relation to land or a body of water, the authority must take into

account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wāhi tapu, valued flora and fauna, and other taonga.

Compare: 2002 No 84 s 77

## 27 Consultation required

- (1) The territorial authority— 5
- (a) must ~~consult~~ ~~undertake consultation~~ on a change proposal; and
- (b) in addition,—
- (i) if the consultation results in significant amendment to the proposal, must consult on the amended proposal; and
- (ii) may undertake further consultation at any stage of the decision-making process. 10
- (2) All consultation on a change proposal ~~must be undertaken in accordance with this section and **section 28.**~~—
- (a) be undertaken in accordance with this section and section 28 and, if applicable, with regard to the matters set out in section 29(1); and 15
- (b) give persons who will or may be affected by, or who have an interest in, the change proposal an opportunity to present their views on the proposal to the authority.
- (3) When deciding whether to undertake ~~further~~ consultation under **subsection (1)(b)(i)**, ~~the a~~ territorial authority ~~must~~ may have regard to— 20
- (a) the extent to which the authority already knows the views and preferences of persons likely to be affected by, or to have an interest in, the change proposal; and
- (b) the nature and significance of the change proposal, including its likely impact from the perspective of the persons who will or may be affected by, or have an interest in, the change proposal. 25
- ~~(4) This section applies despite anything to the contrary in the authority's significance and engagement policy adopted under section 76AA of the LGA 2002.~~
- (4) A territorial authority must use its significance and engagement policy to help the authority to determine— 30
- (a) whether an amendment to a change proposal is significant for the purposes of **subsection (1)(b)(i)**; and
- (b) the significance of a change proposal for the purpose of **subsection (3)(b)**; and
- (c) if a change proposal is determined to be significant under the policy, matters of engagement that support consultation requirements under this section and **section 28.** 35

Compare: 2024 No 31 s 62

- 28** **Information to be made publicly available** ~~How consultation is to be carried out~~
- (1) The territorial authority must, when consulting on a change proposal, make the following information publicly available:
- (a) the change proposal, an explanation of the change proposal, and the reasons for the change proposal: 5
  - (b) the assessment of ~~the other~~ options identified under **section 26** and the authority's reasons for not preferring those options: ~~including—~~
    - (i) ~~the option that the authority prefers, and why; and~~
    - (ii) ~~reasons why other options are not preferred:~~ 10
  - (c) how proceeding with the change proposal is likely to affect—
    - (i) the authority's rates, debt, and levels of service; and
    - (ii) any charges for water services:
    - (iii) arrangements and mechanisms for ~~the~~ funding, pricing, invoicing, and collecting ~~collection of~~ charges for water services: 15
  - (d) how not proceeding with the change proposal is likely to affect—
    - (i) the authority's rates, debt, and levels of service; and
    - (ii) any charges for water services:
  - (e) the implications of the change proposal for communities throughout ~~any~~ collective area involved in the proposal:— 20
    - (i) the authority's district; and
    - (ii) any collective area involved in the change proposal:
  - (f) if the change proposal involves transferring ownership or control of a strategic water services asset, a description of how the change proposal is likely to affect the authority's debt in relation to the asset ~~any accountability or monitoring arrangements the authority will use to assess the effect of the proposal in relation to the asset:~~ 25
  - (fa) for a change proposal described in **section 25(1)(a), (b), or (c)**, information on the proposed ownership of, and shareholding arrangements for, the water organisation: 30
  - (g) any other relevant implications of the change proposal that the authority considers will be of interest to the public:;
  - (h) how persons who will or may be affected by, or who have an interest in, the change proposal may present their views on the proposal to the authority. 35
- (1A) If the territorial authority is considering 2 or more change proposals, it must make the information set out in **subsection (1)** publicly available in relation to each proposal.

- (2) ~~In this **subsection (1)(f)**, **strategic asset** has the meaning set out in section 5(1) of the LGA 2002.~~

Compare: 2024 No 31 s 64

## 29 **Additional considerations ~~relating to any~~ for collective area**

- (1) When deciding whether to adopt a change proposal that relates to water services in a collective area, a territorial authority may also consider— 5
- (a) the impact of the change proposal on the communities in the collective area (as well as the impact on the authority’s district); and
  - (b) the views of people in communities in the collective area (as well as the views of people in communities in the authority’s district); and 10
  - (c) the views of the other territorial authorities that are—
    - (i) parties to the change proposal; or
    - (ii) considering whether to adopt the change proposal.

- (2) This section applies despite section 12(4) and 14(1)(g) of the LGA 2002.

Compare: 2024 No 31 s 65

15

## 30 ~~Use of joint committees~~

- (1) ~~If 2 or more territorial authorities are considering whether to adopt a change proposal that relates to water services in a collective area, any 2 or more of those authorities may use a joint committee appointed under clause 30(1)(b) of Schedule 7 of the LGA 2002 to perform 1 or more of the following tasks:~~ 20

- (a) ~~identifying and assessing options under **section 26**:~~
- (b) ~~recommending a proposal to the territorial authorities for the purposes of consultation:~~
- (c) ~~carrying out consultation under **sections 27 and 28** on behalf of the territorial authorities:~~ 25
- (d) ~~when consultation is completed, making a recommendation to the territorial authorities.~~

- (2) ~~This section applies in addition to, and without limiting, any provision in Schedule 7 of the LGA 2002 that relates to joint committees.~~

- (3) ~~For the purposes of a joint committee performing any of the tasks listed in **subsection (1)**, a reference in Part 6 of the LGA 2002 (planning, decision making, and accountability) to a local authority may be read as a reference to the joint committee.~~ 30

Compare: 2024 No 31 s 66

## Public consultation required for other decisions

35

## 30A Water service provider decisions that require public consultation

- (1) This section—

- (a) applies if a water service provider proposes to—
- (i) transfer ownership or control of a strategic water services asset (as permitted by **section 18(3)**); or
  - (ii) receive a transfer of ownership or control of a strategic water services asset; or 5
  - (iii) make significant changes to the level of service it provides in relation to any water service; but
- (b) does not apply if the proposed action is being consulted on publicly as part of—
- (i) a change proposal under **section 25**; or 10
  - (ii) a draft water services strategy.
- (2) The water service provider must not make a decision on the proposal without first conducting public consultation.
- (3) The person or body that must comply with **subsection (2)** is,—
- (a) if the water service provider is a territorial authority, that authority; or 15
  - (b) if the water service provider is a water organisation,—
    - (i) the organisation’s shareholders; or
    - (ii) the organisation, if directed by the shareholders.
- Role of significance and engagement policy*
- (4) The provider must ensure that its significance and engagement policy addresses all matters necessary for determining— 20
- (a) whether a water services asset is a strategic water services asset; and
  - (b) whether a proposed change to the level of service is a significant change; and
  - (c) how to comply with **subsections (2) and (3)**. 25

Compare: 2002 No 84 s 97(1)

*Significance and engagement policy*

**30B Territorial authority’s policy**

A territorial authority must amend its significance and engagement policy—

- (a) to suit the authority’s role, and any changes to its role, as— 30
  - (i) a water service provider; or
  - (ii) a shareholder in a water organisation; and
- (b) by removing any matters that are no longer needed and are instead required to be included in the significance and engagement policy of a water organisation. 35

**30C Water organisation's policy: content and purpose**

- (1) A water organisation must adopt a policy setting out the following:
- (a) the organisation's general approach to determining the significance of proposals and decisions in relation to issues, water services infrastructure, and other matters: 5
  - (b) any criteria or procedures that the organisation will use in assessing the extent to which issues, proposals, water services infrastructure, decisions, or activities are significant or may have significant consequences:
  - (c) the organisation's general approach to engaging with consumers and communities, including the circumstances in which engagement will be undertaken by— 10
    - (i) the organisation; or
    - (ii) the organisation's shareholders:
  - (d) how the organisation will respond to community preferences about engagement on decisions relating to specific issues, water services infrastructure, or other matters, including the form of engagement that may be desirable: 15
  - (e) any particular approaches or arrangements for engaging with particular relevant communities (for example, iwi, hapū, and other Māori organisations in the water organisation's service area). 20
- (2) The water organisation must also ensure that its significance and engagement policy sets out all relevant matters relating to specific decisions and actions that this Act requires to be made or done in accordance with a water service provider's significance and engagement policy.
- (3) The purpose of the policy is— 25
- (a) to enable the organisation, its shareholders, its consumers, and its communities to identify the degree of significance attached to particular issues, proposals, water services infrastructure, decisions, and activities; and
  - (b) to enable the organisation to develop a flexible and locally appropriate approach to engagement, which recognises and accommodates the preferences and expectations of— 30
    - (i) its shareholders; and
    - (ii) its consumers; and
    - (iii) its shareholders' communities; and 35
    - (iv) any particular communities specified in the policy (for example, iwi, hapū, and other Māori organisations in the water organisation's service area); and
  - (c) to provide clarity about—

- (i) how and when communities can expect to be engaged in decisions about different issues, water services infrastructure, or other matters; and
- (ii) whether engagement will be undertaken by the organisation or its shareholders; and 5
- (iii) how the organisation will take account of consumer and community views on matters on which the organisation's shareholders have expressed a view; and
- (d) to inform the organisation from the beginning of a decision-making process about— 10
  - (i) the extent of any engagement that is expected before a particular decision is made; and
  - (ii) with whom the engagement occurs (for example, shareholders, consumers, particular communities, or the general public); and
  - (iii) the form or type of engagement required. 15
- (4) Without limiting this section, the policy must include all matters required by the organisation's shareholders.  
Compare: 2002 No 84 s 76AA

### **30D Water organisation's policy: specific content**

- (1) Without limiting **section 30C**, a water organisation must ensure that its significance and engagement policy addresses all matters that any provision of this Act requires it to address, including— 20
  - (a) whether a proposed contract under **section 21** is a significant contract and the matters the organisation will consider when determining whether a contract is a significant contract; and 25
  - (b) whether a proposed joint water service provider arrangement under **section 24** is a significant joint water service provider arrangement and the matters the organisation will consider when determining whether an arrangement is a significant joint water service provider arrangement; and 30
  - (c) how to undertake engagement in relation to a proposed significant contract and a proposed significant joint water service provider arrangement in a way that is consistent with **sections 27 and 28**.
- (2) The policy must also address all matters, and contain all information, necessary for— 35
  - (a) decisions under, and consultation required by, **section 30A**; and
  - (b) the organisation to make its water services strategy under **section 196**.
- (3) As the organisation determines over time whether specific water services assets are strategic water services assets for the purposes of **section 30A**, it must

develop a list of strategic water services assets and include the list in its significance and engagement policy for use under that section.

- (4) In addition, the organisation must ensure that its significance and engagement policy is consistent with this Act, including by ensuring that the policy is consistent with any specific requirements relating to consultation or other engagement. 5

**30E Water organisation’s policy: preparation and amendment**

- (1) A water organisation must adopt its first significance and engagement policy within 12 months after the organisation is established under **section 36**.
- (2) If the water organisation was providing water services before the commencement date of this Act, it must adopt its first significance and engagement policy within 12 months after that commencement date. 10
- (3) When preparing its significance and engagement policy, a water organisation must—
- (a) engage with— 15
- (i) its shareholders; and
- (ii) the consumers in its service area; and
- (iii) the communities in the districts or regions of those of its shareholders that are territorial authorities; and
- (iv) any particular communities identified by shareholders (for example, iwi, hapū, and other Māori organisations in the organisation’s service area); and 20
- (b) obtain its shareholders’ approval of the proposed policy.
- (4) When a water organisation is preparing its significance and engagement policy, the organisation and any territorial authorities that are shareholders in the organisation must together— 25
- (a) identify any matters addressed by the organisation’s proposed policy and 1 or more of the authorities’ significance and engagement policies; and
- (b) consider the respective roles and responsibilities of the organisation and the authorities; and 30
- (c) agree on amendments to the organisation’s proposed policy and the authorities’ policies that minimise unnecessary duplication and inconsistency between them.
- (5) The organisation—
- (a) may amend its significance and engagement policy at any time; but 35
- (b) must amend the policy if there is a change to the organisation’s responsibilities for water services, including when the organisation receives or returns responsibilities under a transfer agreement with a territorial authority.

- (6) When amending the policy, the organisation—
- (a) must comply with **subsection (3)(a)(i) and (b)**; and
  - (b) must comply with **subsection (3)(a)(ii) to (iv)** unless it considers on reasonable grounds that it has sufficient information about the interests and preferences of consumers and communities to enable the purpose of the policy to be achieved; and 5
  - (c) must comply with **subsection (4)** if 1 or more territorial authorities are shareholders in the organisation.

**30F Water organisation’s policy: deviation from policy**

If a decision of a water organisation that is a water service provider is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, its significance and engagement policy, the organisation must, when making the decision, clearly identify— 10

- (a) the inconsistency; and
- (b) the reasons for the inconsistency; and 15
- (c) any intention of the organisation to amend its significance and engagement policy to accommodate the decision.

Compare: 2002 No 84 s 80

Subpart 2—Regions in which regional councils also provide water services 20

**31 Purpose of this subpart**

The purpose of this subpart is to make special provision for regions in which a responsibility for providing water services is exercised not only by 1 or more territorial authorities but also by the regional councils.

**32 How regional councils provide water services** 25

- (1) A regional council may do any 1 or more of the following:
- (a) transfer responsibility for providing the provision of water services to by entering into a transfer agreement with a territorial authority in the council’s region (*see **section 33***):
  - (b) transfer responsibility for providing the provision of water services to by entering into a transfer agreement with a water organisation whose service area is in the regional council’s region ~~by means of a transfer agreement with the territorial authority that established the organisation:~~ 30
  - (c) enter into a contract with a person or body to provide water services on behalf of the regional council (*see **section 21***): 35
  - (d) enter into a joint water service provider arrangement (*see **section 24***):

- (e) ~~become a shareholder in a water organisation established by a territorial authority in the council's region;~~
- (f) provide water services itself directly.
- (2) A regional council may take different actions listed in **subsection (1)** for providing— 5
- (a) different water services; or
- (b) different aspects of a water service.
- Effect of transfers, contracts, and arrangements*
- (3) If a regional council transfers responsibility under **subsection (1)(a) or (b)**, the territorial authority or the water organisation (as applicable) becomes the water service provider of the water services to the extent of the transfer. 10
- (4) **Subsection (5)** applies to a regional council that enters into a contract or an arrangement under **subsection (1)(c) or (d)**.
- (5) The council—
- (a) continues to be responsible, as the water service provider under this Act, for ensuring the provision of the water services to which the contract or arrangement relates; and 15
- (b) must ensure that the other party to the contract or arrangement performs and exercises all the statutory functions, duties, and powers associated with providing the water services to which the contract or arrangement relates. 20
- (6) A regional council is the water service provider to the extent that it provides water services under **subsection (1)(c), (d), or (f)**.
- 33 Transfer of responsibilities to territorial authorities**
- (1) For the purposes of section 17(8)(b) of the LGA 2002, a regional council may transfer any responsibility for providing ~~the provision of~~ water services in its region to a territorial authority in that region. 25
- (2) A territorial authority may not transfer any responsibility for providing ~~the provision of~~ water services in its district to the regional council for the region in which that district is located. 30
- (3) In this section, **responsibility** includes any associated duty or legal obligation.
- 34 Transfer agreement with water organisation**
- (1) A regional council may enter into a transfer agreement with a water organisation ~~that has been established by a territorial authority~~ whose service area is in the council's region and, for that purpose, **sections 11 to 14** apply— 35
- (a) to a regional council in the same way that they apply to a territorial authority; and
- (b) with any other necessary modifications.

- (2) However, a regional council must not enter into a transfer agreement unless—
- (a) the regional council has responsibilities, assets, or other matters relating to water services that can be transferred to the water organisation; and
  - (b) either—
    - (i) the regional council is a shareholder in the water organisation; or 5
    - (ii) the shareholders in the water organisation agree to the regional council entering into the transfer agreement.

### 35 Application of this Act to water services role of regional councils

- (1) This Act applies to regional councils as follows:
- (a) each reference to a territorial authority must be read as a reference to a regional council: 10
  - (b) each reference to the district of a territorial authority must be read as a reference to the region of a regional council.
- (2) However, **subsection (1)** does not apply in the case of the following provisions: 15
- (a) ~~sections 8, 9, 10, and 14~~ **sections 8, 9, and 10:**
  - (b) **section 36:**
  - (c) **sections 43 to 53:**
  - (d) **sections 55 to 58:**
  - (e) **Part 3, subparts 2, 5, and 6:** 20
  - (f) **Part 6, subparts 1, 2, and 3.**

## Subpart 3—Water organisations

### *Water organisations: establishment and ownership*

- ### 36 Establishment of water organisation
- (1) A territorial authority may establish a water organisation for the purpose of transferring to the organisation responsibility for providing water services in the authority's district. 25
- (2) A territorial authority may, for the purpose of transferring ~~its~~ responsibility for providing water services in its district, become a shareholder in a water organisation that 1 or more other territorial authorities have established under **subsection (1)**. 30
- (3) A territorial authority may do any of the following:
- (a) establish a water organisation alone or jointly with 1 or more other territorial authorities:
  - (b) establish, or become a shareholder in, more than 1 water organisation: 35

- (e) ~~become a shareholder in a water organisation established by another territorial authority;~~
- (d) establish a water organisation without becoming a shareholder in it (because, for example, the organisation is owned by the trustees of 1 or more consumer trusts). 5
- (3A) A territorial authority must prepare foundation documents for a water organisation it establishes under this section.**
- (4) ~~Before establishing a water organisation, a territorial authority must undertake options assessment and consultation in accordance with **sections 26 to 28.**~~
- (5) A regional council must not ~~cannot~~ establish a water organisation, but it may become a shareholder in a water organisation established by a territorial authority whose district is located in the council's region (*see* **subpart 2**). 10
- 37 Nature and ownership of water organisation**
- (1) A water organisation established under **section 36** must be—
- (a) a company incorporated under the Companies Act 1993 that has the ownership structure set out in **subsection (2)**; or 15
- (b) if the ~~Secretary grants~~ territorial authority establishing the water organisation receives an exemption of the kind described in **section 55(2)** ~~section 55(1)~~, a different kind of person or body with that ownership structure. 20
- (2) A water organisation must be wholly owned by—
- (a) 1 or more local authorities; or
- (b) 1 or more local authorities and the trustees of 1 or more consumer trusts; or
- (c) the trustees of 1 or more consumer trusts. 25
- (3) Shares in a water organisation do not provide the shareholder with any right, title, or interest in the assets or liabilities of the water organisation other than any right, title, or interest specified in the organisation's foundation documents.
- (4) Trustees that hold shares in a water organisation may only transfer those shares to a local authority or the trustees of another consumer trust. 30
- 38 Limited role of water organisation**
- A water organisation must not do anything other than—
- (a) provide water services in accordance with this Act; or
- (b) ~~undertake activities~~ provide services that are related to, or necessary for, providing water services (for example, the management or maintenance of water services networks). 35

- 39** Territorial authorities with ~~Local authorities must consider~~ existing contracts, etc, relating to water services
- (1) ~~A territorial authority that proposes to establish or become a shareholder in a water organisation must consider how any existing contracts, agreements, or arrangements between the territorial authority and a third party that relate to providing water services will apply in relation to the water organisation.~~ 5
- (1) This section applies to a territorial authority that—
- (a) proposes to—
- (i) establish a water organisation; or
- (ii) become a shareholder in a water organisation; or 10
- (iii) transfer additional responsibilities to a water organisation under **section 13**; and
- (b) has an existing contract, agreement, or arrangement with a third party that relates to providing water services.
- (1A) The territorial authority and a third party that is a Māori third party must together determine how the contract, agreement, or arrangement will apply to the water organisation. 15
- (1B) In all other cases, the territorial authority must consider how each existing contract, agreement, or arrangement will apply to the water organisation.
- (2) In this section, Māori third party means a third party that is ~~includes~~ an iwi, hapū, or other Māori organisation. 20

*Governance of water organisations: general*

- 40** **Board directors**
- (1) A director of a water organisation must be appointed on the basis of their competency to perform the role. 25
- (2) The directors of a water organisation must collectively have an appropriate mix of skills, knowledge, and experience in relation to providing water services.
- (3) A person is not able to be appointed as a director of a water organisation if the person is—
- (a) an elected member of a territorial authority that is a shareholder in the water organisation; or
- (b) an employee of a territorial authority that is a shareholder in the water organisation; or
- (c) an employee of any other shareholder in the water organisation; or 30
- (d) an employee of the water organisation. 35
- (4) **Subsection (3)** does not apply if the water organisation is wholly owned by the trustees of 1 or more consumer trusts.

- (5) This section applies in addition to ~~the relevant provisions in Part 8 sections 150 to 159 of the Companies Act 1993 and Part 5 of the LGA 2002.~~

LGA 2002 application if organisation is council-controlled organisation

- (6) The following provisions of the LGA 2002 do not apply if the water organisation is a council-controlled organisation:

- (a) section 57 (appointment of directors):  
 (b) section 58 (role of directors of council-controlled organisations):  
 (c) section 59 (principal objective of council-controlled organisation):  
 (d) section 60 (decisions relating to operation of council-controlled organisations).

**41 ~~Water service providers to act consistently with Treaty settlement obligations~~**

- (1) ~~A water service provider must act in a manner that is consistent with Treaty settlement obligations when performing and exercising functions, powers, and duties under this Act.~~

- (2) ~~In this section, —~~

~~**Treaty settlement Act means —**~~

- (a) ~~an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; or~~  
 (b) ~~any other Act that provides redress for Treaty of Waitangi claims, including Acts that provide collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act, including —~~
- (i) ~~the Maori Commercial Aquaculture Claims Settlement Act 2004;~~  
 (ii) ~~the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014;~~  
 (iii) ~~the Ngā Wai o Maniapoto (Waipa River) Act 2012;~~  
 (iv) ~~the Ngāti Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010;~~  
 (v) ~~the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and secondary legislation that gives effect to section 10 of that Act and is made under Part 9 of the Fisheries Act 1996~~

~~**Treaty settlement deed —**~~

- (a) ~~means a deed or other agreement that —~~
- (i) ~~has been signed by or on behalf of a Minister of the Crown and representatives of a group of Māori; and~~  
 (ii) ~~is in settlement of the claims of that group or in express anticipation, or on account, of that settlement; and~~

- (b) ~~to avoid doubt, includes a deed or other agreement of the kind described in **paragraph (a)** that relates to the claims of a collective or combination of Māori groups; but~~
- (e) ~~does not include an agreement in principle or any document that is preliminary to a signed and ratified deed~~ 5

~~**Treaty settlement obligations** means an obligation under a Treaty settlement Act or a Treaty settlement deed.~~

*Governance of water organisations: consumer trusts*

**42 Purposes of section 43 to 54**

The purposes of **sections 43 to 54** are to— 10

- (a) enable territorial authorities to establish consumer trusts—
- (i) whose trustees will own, or co-own, a water organisation on behalf of consumers; and
- (ii) whose trustees will act in the interests of all of the water organisation's consumers; and 15
- (b) enable consumers to elect trustees to those consumer trusts.

**43 Territorial authority may establish consumer trust-trusts**

- (1) A territorial authority may establish a consumer trust whose trustees will own or co-own a water organisation (*see* **section 37**). 20
- (2) A territorial authority may—
- (a) establish a consumer trust alone or jointly with 1 or more other territorial authorities; and
- (b) establish more than 1 consumer trust.

**44 Role of trustees of consumer trusts**

- (1) The trustees of a consumer trust must— 25
- (a) represent the interests of all consumers who hold an account for the provision of water services with the water organisation that the trust owns or co-owns ~~is owned or co-owned by the trust~~; and
- (b) perform the roles and responsibilities of the shareholders in a water organisation under this Act. 30
- (2) The trustees of a consumer trust must comply with **subsection (1)**—
- (a) on their own, if the water organisation is wholly owned by them; or
- (b) in conjunction with the other co-owners of the water organisation, if the trustees co-own the water organisation with— ~~it is co-owned by those trustees and 1 or more territorial authorities or the trustees of 1 or more other consumer trusts.~~ 35

- (i) 1 or more territorial authorities; or  
(ii) the trustees of 1 or more other consumer trusts.
- (3) A consumer trust exists for the sole purpose ~~of the ownership~~ for which it is established, and its trustees must not have an ownership interest, in their role as trustees of the consumer trust, in any type of organisation other than ~~have any roles and responsibilities other than their roles and responsibilities as shareholders in~~ a water organisation. 5
- 45 Trust deed: content**
- (1) A territorial authority that establishes a consumer trust must ensure that the trust deed provides for the following matters: 10
- (a) the purpose of the trust:
- (b) the number of trustees:
- (c) the term, or maximum term, of appointment for trustees:
- (d) matters relating to meetings of the trust, including their frequency, quorum, voting rules and other procedures, and when to hold a public meeting: 15
- (e) the circumstances in which a trustee vacates office:
- (f) how a trustee vacancy is to be filled:
- (g) matters relating to interim trustees, including limitations on their decision making: 20
- (h) trustees' remuneration:
- (ha) how trustees will disclose their pecuniary interests and how conflicts of interest will be managed:
- (i) the holding of elections of trustees in accordance with the principles set out in **section 50** and the process for holding elections: 25
- (j) trustees' investment powers:
- (k) trustees' powers to spend capital and income of the trust:
- (l) how officers, employees, managers, and agents of the trust are to be appointed:
- (m) administration of the trust generally, including how accounts are to be kept: 30
- (n) the preparation, audit, and publication of financial statements as required by **section 51**:
- (o) the funding of the trust's administration of the trust, including—
- (i) the conduct of elections of trustees; and 35
- (ii) how to recover ~~reasonable administrative costs~~ the following from the water organisation that is owned or co-owned by the trust:

- (A) reasonable costs of the trustees' performance of their role as shareholders in the organisation:
- (B) reasonable costs of the election of trustees under **section 49**:
- (C) reasonable administrative costs: 5
- (p) how the trustees and the territorial authority that established the ~~water organisation~~ consumer trust will engage with one another in relation to the territorial authority's ~~land use and~~ resource management planning and land use planning in its district:
- (pa) how the trustees, in performing their role under this Act, will engage with the consumers on whose behalf the trustees own or co-own the water organisation, including Māori communities among those consumers: 10
- (q) how the trustees will ensure that the water organisation will, as a water service provider, act consistently with Treaty settlement obligations (*see ~~section 6A-section 44~~*): 15
- (r) in what circumstances, and how, the trust deed may be varied:
- (s) either or both of the following:
- (i) in what circumstances, and how, the trust deed may be terminated:
- (ii) the trust's expiry date: 20
- (t) any further matters required by regulations, including any detailed requirements relating to any of the matters referred to in **paragraphs (a) to (s) (†)**.
- (2) If regulations under this Act provide for how a trust deed must provide for any matter referred to in **subsection (1)**, the trust deed must comply with those regulations. 25
- 46 Trust deed: general limitation**
- (1) ~~The All provisions of the~~ trust deed of a consumer trust must be consistent with this Act and any regulations made under this Act.
- (2) A provision, or a variation of a provision, of a trust deed that is inconsistent with this Act or any regulations made under this Act is of no effect. 30
- 47 Trust deed: specific limitations**
- (1) The territorial authority that establishes a consumer trust must not include in the trust deed a provision that enables the authority to—
- (a) appoint, remove, or monitor trustees; or 35
- (b) give any direction or instruction to trustees; or

- (c) require the trustees to consult the authority on their roles and responsibilities as shareholders in the water organisation, unless consultation is necessary to enable the authority to meet its statutory obligations.
- (2) Except as otherwise provided in this Act, a consumer trust—
- (a) must operate in accordance with the Trusts Act 2019; and 5
- (b) ~~is subject to~~ must comply with the Local Government Official Information and Meetings Act 1987 as if it were a local authority, and that Act applies accordingly with all necessary modifications.
- (i) ~~the Local Authorities (Members' Interests) Act 1968; and~~
- (ii) ~~the Local Government Official Information and Meetings Act 1987.~~ 10

#### 48 Trust deed: Secretary approval

- (1) A territorial authority that proposes to establish a consumer trust must ask the Secretary to approve the proposed trust deed.
- (2) The trust cannot be established unless the Secretary reviews the draft trust deed and approves it on being satisfied that it is consistent with this Act and any regulations made under this Act. 15
- (3) The Secretary may ask the territorial authority to amend the draft trust deed.

#### 49 Trustees: election, term, and scope of role

- (1) Trustees of a consumer trust must be elected to that role in an election conducted in accordance with the election principles set out in **section 50.** 20
- (a) ~~by consumers who hold an account for the provision of water services with the water organisation owned or co-owned by the trust; and~~
- (b) ~~conducted in accordance with the election principles set out in **section 50.**~~ 25
- (2) A person is eligible for election as a trustee if—
- (a) ~~their principal residence~~ the address where the person resides for the purposes of section 72 of the Electoral Act 1993 is located in the service area of the water organisation that the trustees own or co-own is owned or co-owned by the trust; and 30
- (b) they hold an account for the provision of water services with the water organisation.
- (3) A trustee must be appointed for a term not exceeding the maximum term of office for trustees permitted by the trust deed.
- (4) A trustee may hold office on more than 1 occasion. 35
- (5) The powers of the trustees are not affected by a vacancy in the trust's membership.

- (6) A trustee must not be a member of the board of directors of the water organisation ~~that the trustees own or co-own~~ ~~owned or co-owned by the trust.~~
- (7) A trustee who owns or co-owns a water organisation does not have a conflict of interest by reason only of being a consumer of water services provided by the water organisation. 5
- 50 Trustee elections: principles**
- (1) Elections of trustees must be conducted in accordance with the following principles:
- (a) trustees are elected by consumers who hold an account for the provision of water services with the water organisation that the trustees own or co-own ~~is owned or co-owned by trust:~~ 10
- (b) each consumer who is the named account holder may cast 1 vote:
- (c) elections must be conducted by an electoral officer appointed by the trust:
- (d) elections must be— 15
- (i) ~~conducted held~~ in accordance with the process set out in the trust deed; and
- (ii) conducted by the electoral officer in a manner that is readily understood by electors and that gives them confidence in the fairness of the election process. 20
- (2) Despite **subsection (1)**, when a consumer trust is first established, the territorial authority that ~~establishes~~ ~~established~~ the trust must appoint persons ~~who~~ whom the authority considers appropriate to be the initial trustees of the trust.
- (3) The functions of initial trustees are limited to—
- (a) ~~to conduct~~ conducting the first election of trustees as soon as practicable and performing related tasks, such as obtaining from the water organisation consumer information needed for conducting the election; and 25
- (b) ~~to perform~~ performing other tasks that are necessary to establish ~~the establishment of~~ the trust.
- (4) For the purposes of future elections, all trustees may obtain relevant consumer information from the water organisation. 30
- 51 Financial statements and audits**
- (1) The trustees must; enable the trust's financial statements to be audited within 5 months after the end of each financial year of the trust by doing the following ~~within 4 months after the end of each financial year of the trust, —;~~ 35
- (a) ~~prepare~~ preparing financial statements in accordance with generally accepted accounting practice ~~(within the meaning of section 8 of the Financial Reporting Act 2013) in relation to the trust for that financial year; and;~~

- (b) ~~submit~~ submitting those financial statements to the auditor for audit.
- (2) The Auditor-General is the auditor of a consumer trust.
- ~~(3) The trustees must make the following publicly available:~~
- ~~(a) the trust's financial statements;~~
- ~~(b) the Auditor-General's reports on those statements.~~ 5
- (4) A trustee who, knowingly and without lawful excuse, fails to comply with **subsection (1) or (3)** commits an offence punishable on conviction by a fine not exceeding \$200,000.

### **51A Annual report**

- (1) The trustees of a consumer trust must, in relation to each financial year, prepare and adopt an annual report that, for the financial year to which it relates,— 10
- (a) reports on—
- (i) the trustees' activities to further the purpose of the trust; and
- (ii) the extent to which the trustees' expectations in relation to ownership and control of the water organisation (as set out in the organisation's statement of expectations) have been met; and 15
- (b) contains—
- (i) the consumer trust's audited financial statements; and
- (ii) the Auditor-General's report on the trust's financial statements.
- (2) The trustees must— 20
- (a) adopt the annual report no later than 4 months after the end of the financial year to which it relates; and
- (b) make the report publicly available as soon as practicable after an audit under **section 51** is completed.
- (3) Despite **subsection (2)(a)**, the trustees of a consumer trust that is established less than 4 months before the end of a financial year must, after the end of the trust's first full financial year, prepare and adopt an annual report that covers the period from the date on which the trust is established until the end of the first full financial year. 25
- (4) A trustee who, knowingly and without lawful excuse, fails to comply with **subsection (2)(b)** commits an offence punishable on conviction by a fine not exceeding \$200,000. 30

### **51B Trustees' indemnity and liability**

- (1) Subject to this section, a trustee of a consumer trust is indemnified from the trust property for— 35
- (a) costs and damages for any civil liability arising from any action brought by a third party if the trustee was acting in good faith and in the perform-

- ance (or intended performance) of the trustee's roles and responsibilities;  
and
- (b) costs arising from any successfully defended criminal action relating to acts or omissions in their capacity as a trustee.
- (2) The trustees of a consumer trust are jointly and severally liable for losses incurred by trust property if 1 or more trustees unlawfully expend money, unlawfully sell or otherwise dispose of assets or incur liabilities, or intentionally or negligently fail to collect money owed. 5
- (3) Loss under **subsection (2)** is recoverable as a debt due to the Crown.
- (4) In proceedings by the Crown to recover the loss from the trustees, it is a defence if a trustee proves that the act or failure to act resulting in the loss occurred— 10
- (a) without the trustee's knowledge; or
- (b) with the trustee's knowledge but against the trustee's protest made at or before the time when the loss occurred; or 15
- (c) contrary to the manner in which the trustee voted on the issue at a meeting of the trustees of the consumer trust; or
- (d) in circumstances where, although being a party to the act or failure to act, the trustee acted in good faith and in reliance on reports, statements, financial data, or other information prepared or supplied, or on professional or expert advice given, by any of the following persons: 20
- (i) an employee of the consumer trust, or of the water organisation owned or co-owned by the trust, whom the trustee believed on reasonable grounds to be reliable and competent in relation to the matters concerned: 25
- (ii) a professional adviser or expert in relation to matters that the trustee believed on reasonable grounds to be within the person's professional or expert competence.
- (5) If the court finds that the loss was incurred by any action by the trustees referred to in **subsection (2)**, the trustees must, by order of the court, pay costs and other expenses arising out of the proceedings. 30
- (6) The Crown must return any amount it recovers from the trustees, less costs and other expenses it incurred in the recovery, to the trust property.
- Compare: 2002 No 84 ss 43, 44, 46, 47
- 52 Variation of trust deed: Secretary approval** 35
- (1) Trustees who propose to vary the trust deed must—
- (a) prepare an appropriate variation; and
- (b) obtain the Secretary's approval of the variation.

- (2) The Secretary must approve the variation of the trust deed if satisfied that the variation is consistent with this Act and any regulations made under this Act.

### 53 Termination and expiry of trust

- (1) A consumer trust continues indefinitely, subject to the terms of the trust deed.
- (2) A consumer trust ~~cannot~~ must not, without the approval of the Secretary, be terminated other than by expiry ~~without the approval of the Secretary.~~ 5
- (3) When a consumer trust expires or is terminated, the trustees must transfer to the territorial authority or territorial authorities that established the trust—
- (a) all shares that they hold in the water organisation that is owned or co-owned by the trust; and 10
- (b) all other assets and liabilities that they hold for the trust.

### 54 Ministerial powers

- (1) The Minister may use their powers under Part 10 of the LGA 2002 to assist trustees and to intervene in the affairs of trustees.
- (2) For the purposes of this section, Part 10 of the LGA 2002 must be read as applying, with any necessary modifications, to a consumer trust as if it were a local authority. 15

#### *Exemptions relating to water organisations and consumer trusts*

### 55 Applications for exemptions

- (1) ~~Subsections (2), (3), and (4) allow~~ This section allows a territorial authority that establishes, intends to establish, or has established a water organisation (whether or not the authority owns or co-owns, or intends to own or co-own, the water organisation) to apply to the Secretary for an exemption from specified requirements under this subpart. 20
- (2) The authority may apply for the water organisation to be ~~exempt~~ exempted from the requirement that a water organisation must be a company incorporated under the Companies Act 1993 (*see section 37(1)*). 25
- (3) The authority may apply for the water organisation to be ~~exempt~~ exempted from the requirement that a water organisation must not provide services other than— 30
- (a) water services; and
- (b) services that are related to, or necessary for, providing water services (for example, services relating to the management or maintenance of water services networks) (*see section 38*).
- (4) The authority may apply for an exemption from the requirement under **section 44(3)** that trustees of a consumer trust ~~that owns or co-owns~~ who own or co-own, or is who are to own or co-own, the water organisation must not have an ownership interest, in their role as trustees of the consumer trust, in any type 35

of organisation other than ~~have any roles and responsibilities other than their roles and responsibilities as shareholders in~~ a water organisation.

- (5) A territorial authority that intends to establish a water organisation ~~that is owned by shareholders of a co-operative company~~ may apply to the Secretary for the water organisation to be ~~exempt~~ exempted from the requirement that only ~~territorial~~ local authorities and trustees of consumer trusts may be shareholders in a water organisation (*see **section 37(2)***) if the authority intends that the water organisation will be owned by—
- (a) 1 or more local authorities or trustees of 1 or more consumer trusts as set out in **section 37(2)**; and
- (b) consumer shareholders in a co-operative company holding only a nominal number of non-transferrable shares in the water organisation.
- (6) ~~A territorial authority that establishes a consumer trust may apply to the Secretary for an exemption from the requirement under **section 44(3)** that trustees must not have any roles and responsibilities other than their roles and responsibilities as shareholders in a water organisation.~~
- (7) In **subsection (5)**,—
- consumer shareholder** means a person who is—
- (a) a consumer of the services provided by the water organisation; and
- (b) a transacting shareholder in the co-operative company within the meaning of section 4(1)(b) and (d) of the Co-operative Companies Act 1996
- co-operative company** means a company registered as a co-operative company under the Co-operative Companies Act 1996.

## 56 Process for considering application for exemption

- (1) On receipt of an application under **section 55**, the Secretary must—
- (a) consult the Water Services Authority, the Commerce Commission, and the Inland Revenue Department in relation to the application; and
- (b) advise the Minister whether to recommend granting an exemption, including—
- (i) whether the exemption should be subject to any terms and conditions; and
- (ii) whether the exemption should be granted in full or in part.
- (2) After receiving the Secretary's advice, the Minister must—
- (a) recommend that an exemption ~~order be made~~ be granted by order under **section 57**; or
- (b) decline the application.
- (3) The Minister may recommend that the exemption ~~order~~ be granted—
- (a) subject to any terms or conditions; or

- (b) in full or in part.
- (4) The Minister must not recommend an exemption ~~order~~ unless satisfied on reasonable grounds that the exemption is—
- (a) would ~~does~~ not prevent the water organisation or the trustees of the consumer trust (as applicable) from complying with this Act; and 5
- (b) would ~~does~~ not adversely affect—
- (i) the ability of the water organisation to meet its objectives; or
- (ii) the financial sustainability of the water organisation.
- (5) If the Minister decides to decline an application for an exemption, the Minister must direct the Secretary to notify the following parties that the exemption has been declined:— 10
- (a) the shareholders; ~~and~~
- (b) the territorial authority that applied for the exemption.
- (6) After an exemption order is made granting the exemption, the Secretary must notify the following parties that the exemption has been granted:— 15
- (a) the shareholders; ~~and~~
- (b) the territorial authority that applied for the exemption.

### 57 Exemption order

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, exempt a water organisation or trustees from a requirement referred to in **section 55**. 20
- (2) An exemption under this section—
- (a) may be granted—
- (i) in full or in part; or
- (ii) with or without conditions; and 25
- (b) ~~must also~~ refer to the territorial authority that applied for the exemption; and
- (c) must set out the reasons for the exemption.
- (3) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 30

### 58 Publication of reliance on exemption

- (1) This section applies to a territorial authority that—
- (a) is ~~granted an exemption~~ referred to in an exemption order under ~~section 56~~ section 57; and
- (b) relies on the exemption when establishing— 35
- (i) a water organisation; or

- (ii) a consumer trust ~~to own or co-own a water organisation.~~
- (2) ~~A~~ The territorial authority must ~~publish~~ make information about the exemption, and the territorial authority's reliance on the exemption, ~~on an internet site that is maintained by or on behalf of the territorial authority and is accessible by the public free of charge~~ publicly available.

5

#### Subpart 4—Other roles of water service providers

#### **58A Definitions for this subpart**

In this subpart,—

**assessment,—**

**(a) in relation to drinking water services,—**

10

**(i) means an assessment of drinking water services available to communities throughout the territorial authority's district, including private and community-owned or community-operated drinking water supplies, regardless of any role of the authority as a water service provider; but**

15

**(ii) does not include assessments in relation to domestic self-suppliers; and**

**(b) in relation to stormwater services and wastewater services,—**

**(i) means an assessment of stormwater services and wastewater services available to communities throughout the territorial authority's district, regardless of any role of the authority as a water service provider; but**

20

**(ii) does not include assessments in relation to individual properties**

**domestic self-supplier has the same meaning as in section 10 of the Water Services Act 2021**

25

**drinking water services means the supply of drinking water to communities to the point of supply of each dwelling house and commercial premises to which drinking water is supplied**

**drinking water supplier—**

**(a) has the same meaning as in section 8 of the Water Services Act 2021; but**

30

**(b) does not include a water service provider**

**significant problem or potential problem means—**

**(a) a drinking water supplier has persistently failed to comply with the requirements of the Water Services Act 2021; or**

35

**(b) there is a serious risk to public health from the supply provided by a drinking water supplier; or**

**(c) a drinking water supplier—**

- (i) has ceased to manage and operate a drinking water supply; or
- (ii) is, in the Water Services Authority's opinion, likely to cease managing and operating a drinking water supply.

*Assessment of water services throughout district*

- 58B** Assessment of communities' access to drinking water 5
- (1) A territorial authority must inform itself about the access that each community in its district has to drinking water services by undertaking an assessment of drinking water services in accordance with this section.
- (2) An assessment of drinking water services must—
- (a) identify each community that receives a drinking water service; and 10
  - (b) describe the nature of existing drinking water services to the community; and
  - (c) describe the characteristics of the community; and
  - (d) assess the extent to which the community is currently receiving, and will continue to receive, a sufficient quantity of drinking water, including a consideration of— 15
    - (i) the community's existing access to drinking water services; and
    - (ii) any reasonably foreseeable risks to the community's access to drinking water services in the future; and
    - (iii) the current and estimated future demands for drinking water services within the community; and 20
  - (e) describe the safety and quality of drinking water currently being supplied to the community, using information collected and made available by the Water Services Authority and any other organisations that the territorial authority considers relevant; and 25
  - (f) identify and assess any other public health risks relating to the drinking water services supplied to the community; and
  - (g) based on the assessment under **paragraphs (b) to (f)**,—
    - (i) assess the consequences if the community loses access to drinking water services in the future, or is provided with drinking water services that are deficient in any way, including the implications for that community's public health; and 30
    - (ii) outline a plan to provide for the community's ongoing access to drinking water services.
- (3) A territorial authority must conduct an assessment under **subsection (2)**— 35
- (a) at least once every 3 years (when other assessments are carried out or at different times); or

- (b) at an earlier date than required by **paragraph (a)**, if the territorial authority is made aware of concerns about the access that a community has to drinking water services.
- (4) A territorial authority must provide opportunities for any person to alert the territorial authority at any time to concerns about a community's access to drinking water services. 5
- (5) For the purposes of this section,—
- (a) assessment includes—
- (i) assessing a service for the first time; and
- (ii) reviewing and updating an existing assessment; and 10
- (b) the scope of each assessment must include—
- (i) communities that receive drinking water services from the territorial authority or another water service provider; and
- (ii) communities that do not receive drinking water services from the territorial authority or another water service provider; and 15
- (iii) all types of water supply arrangements, including communities (and households within those communities) that do not receive water supply services supplied by network reticulation; and
- (c) territorial authorities need not assess drinking water services that are owned or operated by a department within the meaning of section 5 of the Water Services Act 2021; and 20
- (d) an assessment may be carried out—
- (i) by the territorial authority; or
- (ii) on the authority's behalf by another appropriate organisation in the authority's district, including another water service provider or an iwi, hapū, or other Māori organisation. 25

Compare: 2002 No 84 s 125

### **58C Obligations in relation to completed assessment**

- (1) On completing an assessment of a community drinking water service, a territorial authority must— 30
- (a) make the assessment publicly available; and
- (b) provide the Water Services Authority with a copy of the assessment in electronic form.
- (2) A territorial authority must also notify the Water Services Authority about—
- (a) any drinking water suppliers that are, or appear to be, failing to meet the supplier's obligations under the Water Services Act 2021 or are at risk of doing so; and 35

- (b) any other matters of concern arising from the assessment, including potential risks to communities affected by the assessment that relate to—
- (i) any absence of, or deficiency in, a drinking water service; or
- (ii) a drinking water supplier that is at risk of ceasing to provide a service. 5
- (3) A territorial authority must also consider the findings and implications of the assessment in relation to—
- (a) the territorial authority’s water services strategy under **section 190**; and
- (b) if the territorial authority is a shareholder in a water organisation that is a water service provider, the authority’s statement of expectations under **section 184**; and 10
- (c) the territorial authority’s district plan prepared under the Resource Management Act 1991; and
- (d) the territorial authority’s broader duty to improve, promote, and protect public health within its district in accordance with section 23 of the Health Act 1956. 15

Compare: 2002 No 84 s 126

**58D Assessment of communities’ stormwater and wastewater services**

- (1) A territorial authority must assess the provision within its district of— 20
- (a) stormwater services; and
- (b) wastewater services.
- (2) The purpose of an assessment is to assess, from a public health perspective, the adequacy of stormwater services and wastewater services available to communities throughout a territorial authority’s district, taking into consideration— 25
- (a) the health risks to communities arising from any absence of, or deficiency in, the services; and
- (b) the quality of the services currently available to communities within the district; and
- (c) the current and estimated future demands for any of those services; and 30
- (d) the actual or potential consequences of stormwater and wastewater discharges within the district.
- (3) One type of service may be assessed in conjunction with the other.
- (4) An assessment may be carried out—
- (a) by the territorial authority; or 35
- (b) on the authority’s behalf by another appropriate organisation in the authority’s district, including another water service provider or an iwi, hapū, or other Māori organisation.

- (5) On completing an assessment, a territorial authority must make the assessment publicly available.
- (6) A territorial authority must also consider the findings and implications of the assessment in relation to—
- (a) the territorial authority’s water services strategy under **section 190**; and 5
  - (b) if the territorial authority is a shareholder in a water organisation that is a water service provider, the authority’s statement of expectations under **section 184**; and
  - (c) the territorial authority’s district plan prepared under the Resource Management Act 1991; and 10
  - (d) the territorial authority’s broader duty to improve, promote, and protect public health within its district in accordance with section 23 of the Health Act 1956.

Compare: 2002 No 84 s 128

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*Water supply ensured if supplier facing significant problem, etc*

**58E Provider to ensure water supply when existing supplier facing significant problem, etc**

- (1) This section applies if—
- (a) a water service provider with responsibility for water supply services— 20
    - (i) becomes aware that a drinking water supplier operating in the provider’s service area is facing a significant problem or potential problem in relation to any of its drinking water supplies; and
    - (ii) notifies the Water Services Authority of the provider’s concerns and discusses them with the Authority; or 25
  - (b) the Water Services Authority requires the water service provider to take action under this section.
- (2) The water service provider must, as the circumstances allow and within a time frame determined by the Water Services Authority,—
- (a) work collaboratively with the supplier, the consumers of the supply, and the Water Services Authority to identify 1 or more of the following: 30
    - (i) an immediate solution to the problem;
    - (ii) a temporary solution to the problem;
    - (iii) a permanent solution to the problem; and
  - (b) ensure that drinking water is supplied to the affected consumers on a temporary or permanent basis if— 35
    - (i) the supplier is unable to continue to provide a supply that meets the requirements under the Water Services Act 2021; and

- (ii) an alternative solution is not readily available, or cannot be agreed by the parties involved within the time frame determined by the Water Services Authority.
- (3) In complying with **subsection (2)**, the water service provider may consider a range of options, including— 5
- (a) temporarily taking over the management and operations of the drinking water supply; and
- (b) permanently taking over the management and operations of the drinking water supply; and
- (c) ensuring that drinking water continues to be provided by other means. 10
- (4) The water service provider is not required to provide the supply by means of a reticulated network.
- (5) If a water service provider permanently takes over the management and operations of a drinking water supply, the provider, the Water Services Authority, the former supplier, and the affected consumers must work together to determine how to deal with— 15
- (a) any assets and liabilities of the service taken over; and
- (b) any legal or other issues that may affect the provider’s ability to manage and operate the drinking water supply, such as access to the land on, or beneath which, assets are situated; and 20
- (c) how the provider will be compensated for costs incurred in taking over responsibility for the drinking water supply.
- (6) A water service provider referred to in **subsection (5)**—
- (a) may—
- (i) charge for any drinking water services it provides to affected consumers; and 25
- (ii) recover its costs from the previous supplier; but
- (b) when making decisions about future charges and funding arrangements, must—
- (i) take reasonable steps to ascertain and consider the financial circumstances facing the affected consumers; and 30
- (ii) consider the range of available funding sources; and
- (iii) on request, demonstrate that it has considered the matters referred to in **subparagraphs (i) and (ii)**.

Compare: 2002 No 84 s 127

35

*Closure or transfer of small water services*

**58F** **Power to close down or transfer small water service**

- (1) This section applies to a small water service—

- (a) that has been operated by a water service provider; but
- (b) that it is no longer appropriate to maintain.
- (2) Despite **section 17(1)**, a water service provider may—
- (a) close down a water service; or
- (b) transfer a water service to an entity that represents the community for which the service is operated. 5
- (3) The water service provider must not close down or transfer the water service unless—
- (a) there are 200 or fewer persons for whom the water service is operated and they are ordinarily resident in the provider's service area; and 10
- (b) the provider has consulted the Medical Officer of Health for the district in which the provider's service area is located or the Water Services Authority; and
- (c) in the case of a proposed closure, the provider has—
- (i) carried out a review, assessment, and comparison under **section 58G(1)**; and 15
- (ii) made all information obtained from those actions publicly available in a balanced and timely manner; and
- (d) in the case of a proposed transfer, the provider has—
- (i) developed a draft management plan and carried out assessments under **section 58G(2)**; and 20
- (ii) made all information obtained from those actions publicly available in a balanced and timely manner; and
- (e) the provider has made the views of the Medical Officer of Health or the Water Services Authority (as applicable) publicly available in a balanced and timely manner; and 25
- (f) the proposal is supported, in a binding referendum conducted under section 9 of the Local Electoral Act 2001 using the First Past the Post electoral system,—
- (i) in the case of a proposed closure, by 75% or more of the votes cast by eligible voters; or 30
- (ii) in the case of a proposed transfer, by more than 50% of the votes cast by eligible voters.
- (4) For the purposes of **subsection (3)(a)**, a certificate signed by the chief executive of the water service provider as to the relevant number of persons is conclusive evidence of that number. 35

Compare: 2002 No 84 s 131

**58G Assessments, etc, required for closure or transfer of water service**

- (1) A water service provider may only close down a water service under **section 58F(2)(a)** if it has first—
- (a) reviewed the likely effect of the closure on—
    - (i) the public health of the community that would be affected by the closure; and 5
    - (ii) the environment in the district of that community; and
  - (b) assessed, in relation to each property that receives the water service, the likely capital cost and annual operating costs of providing an appropriate alternative service if the water service is closed down; and 10
  - (c) compared the quality and adequacy of the existing water service with the likely quality and adequacy of the alternative service referred to in **paragraph (b)**.
- (2) A water service provider may only transfer a water service under **section 58F(2)(b)** if it has first— 15
- (a) developed a draft management plan under which the entity that represents the community (the **entity**) would maintain and operate the water service; and
  - (b) assessed the likely future capital and operating costs of the entity to maintain and operate the water service; and 20
  - (c) assessed the ability of the entity to maintain and operate the water service satisfactorily.

Compare: 2002 No 84 ss 134, 135

**58H Conduct of referendum**

- (1) The territorial authority in whose district the majority of eligible voters are on the roll of electors is responsible for conducting a referendum for the purposes of **section 58F(3)(f)**. 25
- (2) The electoral officer of the territorial authority must prepare a special roll of the eligible voters.
- (3) A person is **eligible** to vote in a referendum if the person is qualified as— 30
- (a) a residential elector under section 23 of the Local Electoral Act 2001 and the address in respect of which the person is registered as a parliamentary elector is a property serviced by the water service that is the subject of the referendum; or
  - (b) a ratepayer elector under section 24 of the Local Electoral Act 2001 and the property, for the purposes of section 24(1)(a) or (b) of that Act, is a property serviced by the water service that is the subject of the referendum. 35

- (4) The provisions of the Local Electoral Act 2001 apply, with any necessary modifications, to the conduct of a referendum for the purposes of **section 58F(3)(f)**.

Compare: 2002 No 84 ss 132, 133

## Part 3

5

### Provision of water services: operational matters

#### Subpart 1—Charges for water services

#### **59 Application of subpart**

- (1) Despite anything to the contrary in this subpart, this subpart does not apply to Watercare Services Limited (and any subsidiary of Watercare Services Limited). 10
- (2) Each reference to a water organisation in this subpart must be read as excluding Watercare Services Limited (and any subsidiary of Watercare Services Limited).

#### **59A Purpose of subpart**

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- (1) The purpose of this subpart is to provide water organisations with the ability to charge for providing water services.
- (2) A water organisation must not charge for providing water services except as provided in this subpart.

#### **60 Water organisation may set charges**

20

- (1) A water organisation may set and collect charges for 1 or more of the following:
- (a) water supply services:
  - (b) stormwater services:
  - (c) wastewater services, including trade waste services. 25
- (2) A charge set and collected under **subsection (1)** may include charges for 1 or more of the following:
- (a) the initial connection to 1 or more of the services specified in **subsection (1)** ~~(the specified services)~~:
  - (b) ~~a contribution to the capital costs of infrastructure to service —~~ 30
    - (i) ~~the additional demand on the network used for 1 or more of the specified services:~~
    - (ii) ~~other increased demand for 1 or more of the specified services:~~
  - (c) serviceability (*see* **section 62**):

- (d) meeting the costs that the water organisation incurs in performing and exercising its duties, functions, and powers in relation to providing water services under this Act.
- (3) When setting a charge, the water organisation may determine— 5
- (a) how the charge is assessed; and
  - (b) when the charge is due; and
  - (c) how the charge is collected; and
  - (d) how the charge may be paid.
- (4) When determining whether to set a charge, or how a charge is to be collected or may be paid, the water organisation may (by way of example) do 1 or more of the following:— 10
- (a) charge a fixed or variable charge; ~~or~~
  - (b) charge according to water usage or wastewater flow; ~~or~~
  - (c) require a deposit and then further payment; ~~or~~
  - (d) require full payment at the outset; ~~or~~ 15
  - (e) charge on the basis of an hourly rate or any other rate of service or by any other method of charging.
- (5) For the purposes of **subsection (2)(c)**, a charge for serviceability is a charge in respect of a property to which **section 62** applies.
- (6) A charge set under this section— 20
- (a) must be set in accordance with the water organisation’s water services strategy (*see* **sections 190 and 191**); but
  - (b) must not be based on, or take into consideration, a property’s rateable value ~~any property valuations, including a property’s annual value, land value, or capital value.~~ 25
- (7) In this section, trade waste services means services provided in relation to trade waste.
- 61 Setting charges for stormwater services: additional requirements**
- (1) In setting charges for stormwater services, a water organisation must comply ~~also act in accordance~~ with this section. 30
- ~~(2) The board of the water organisation must determine the recoverable cost of stormwater services on the basis of whether the property is —~~
- ~~(a) served by a stormwater network or located within 100 metres of a stormwater network that can serve the property if connected; or~~
  - ~~(b) located within a geographical zone of the organisation’s service area that is specified in —~~ 35
    - (i) a transfer agreement with a territorial authority; or

- ~~(ii) the organisation's water service strategy.~~
- (2) A water organisation must determine the recoverable cost of stormwater services on the basis of whether the property is located within a stormwater service zone of the organisation's service area that is specified in—
- (a) a transfer agreement with a territorial authority; or 5
- (b) the organisation's water services strategy.
- (3) A water organisation must not collect a charge for stormwater services from a transport corridor manager.
- 62 Serviceability charge for property not connected to network**
- (1) This section applies to property that— 10
- (a) is within 100 metres of one of the following networks that has sufficient capacity to service the property:
- (i) a water supply network;
- (ii) a wastewater network; and
- (b) is not, but can be, connected to that network; and 15
- (c) is not non-rateable land specified in Part 1 of Schedule 1 of the Local Government (Rating) Act 2002.
- ~~(2) The person who owns the property is liable to pay a serviceability charge if the relevant water organisation sets serviceability charges in relation to property that is not connected to its network.~~ 20
- (2) The relevant water organisation for a property that is not connected to its network may set serviceability charges in relation to the property.
- (3) However, if the property is 50% non-rateable land specified in Part 2 of Schedule 1 of the Local Government (Rating) Act 2002, the water organisation may only set a serviceability charge that is 50% of the charge that would otherwise be payable ~~person is liable to pay only 50% of those charges.~~ 25
- ~~(4) For the purposes of this section, a person who owns the property includes a person who leases the property under a lease that requires the person to pay water services charges to a water service provider that the owner of the property would otherwise pay.~~ 30
- 63 Charges set by new water organisation**
- (1) This section applies to a water organisation—
- (a) that ~~is recently established and~~ is setting charges under this subpart for the first time; and
- (b) whose account holders, or intended account holders, include persons who, immediately before the organisation's establishment, were being rated for water services on the basis of a property's rateable value ~~prop-~~ 35

~~erty valuation, including the annual value, land value, or capital value of their property.~~

- (1A) When this section applies, **section 60(6)(b)** does not apply.
- (2) ~~The water organisation must comply with this subpart in the setting of charges within 5 years after the organisation's establishment.~~ 5
- (2) During the 5 years after the organisation's establishment, the water organisation may set charges under this section based on a property's rateable value.
- (3) However, during that 5-year period, the organisation's power to set charges based on a property's rateable value is subject to the following: ~~During that 5-year period, the organisation must set charges as follows:~~ 10
- (a) it must not rely entirely on a property's rateable value ~~property valuation~~:
- (b) it may use a property's rateable value ~~property valuation~~ and 1 or more other methods (for example, charging fixed amounts or according to water usage) for portions of the charge: 15
- (c) it must annually adjust its methods of setting charges to decrease its reliance on a property's rateable value ~~property valuation~~:
- (d) in the final year, it must use methods other than a property's rateable value ~~property valuation~~ for most of the charge:
- (e) by the start of the sixth year, it must use methods other than a property's rateable value ~~property valuation~~ for the whole charge. 20

### **63A Disapplication of limit on revenue from rates**

- (1) Section 21 of the Local Government (Rating) Act 2002 does not apply to a territorial authority that has transferred the power to charge for providing water services to a water organisation. 25
- (2) **Subsection (1)** applies until the end of the fifth financial year after the financial year in which the transfer takes effect.

### **64 Water organisation must publish list of charges**

- (1) A water organisation must,—
- (a) ~~at least once a year,~~ publish a list setting out the water services charges that apply to its annual billing period on a publicly accessible internet site maintained by, or on behalf of, the water organisation in a format that is readily accessible; and 30
- (b) update the list as soon as is reasonably practicable after changing the charges ~~it~~. 35
- (1A) For the purposes of **subsection (1)(a)**, the water organisation must publish the list of charges that will apply in a financial year no later than the last day of the previous financial year.

(2) However, the water organisation is not required to comply with **subsection (1)** in respect of water services charges that the organisation considers to be customised or otherwise unusual.

~~(3) For the purposes of this section, **water services charges** means the charges set under **section 60**.~~

5

### **65 Water organisation and territorial authority must not both charge for water service**

(1) If a water organisation ~~sets~~ ~~imposes~~ a charge under **section 60** for providing a water service to a property, a territorial authority must not, in relation to the property,—

10

- (a) ~~set~~ ~~impose~~ a charge for providing the same service; or
- (b) collect a rate for providing the same service.

(2) If a territorial authority ~~sets~~ ~~imposes~~ a rate for providing a water service to a property, a water organisation must not, in relation to the property, ~~set~~ ~~impose~~ a charge for providing the same service.

15

(3) This section is subject to **section 66**.

(4) In this section, **rate** has the meaning set out in section 5 of the Local Government (Rating) Act 2002.

### **66 Charges when responsibility for setting provider of water services charges transferred ~~changes~~**

20

(1) This section applies—

- (a) if the responsibility for ~~setting a providing water services charge services~~ transfers—
  - (i) from a territorial authority to a water organisation; or
  - (ii) from a water organisation to a territorial authority; and
- (b) the transfer takes place on a date (the **transfer date**) other than 1 July.

25

(2) ~~The party that is responsible for setting the water services charge provider of the water services~~ before the transfer date—

- (a) must not charge for ~~the water service services~~ provided on or after the transfer date; but
- (b) may, on or after the transfer date, set and collect a charge for ~~the water service services~~ provided before the transfer date.

30

(3) ~~The party that is responsible for setting the water services charge provider of the water services~~ after the transfer date—

- (a) must not charge for ~~the water service services~~ provided before the transfer date; but
- (b) may, before the transfer date, set and collect a charge for ~~the water service services~~ to be provided on or after the transfer date.

35

**67 Liability for water services charges**

- (1) The following persons are liable to pay water services charges (other than trade waste charges):
- (a) the owner of a property:
  - (b) the lessee of a property if the lease— 5
    - (i) is registered after 30 April 2003 under section 91 of the Land Transfer Act 2017; and
    - (ii) is for a term (including renewals) of 10 years or more; and
    - (iii) provides that the lessee must be entered in the rating information database and the district valuation roll as the ratepayer in respect of the property: 10
  - (c) the lessee or licensee of a property if—
    - (i) the name of the lessee or licensee was, immediately before 30 April 2003, entered in the district valuation roll as the occupier of a separately rateable property under the Rating Powers Act 1988 that substantially corresponds with the rating unit entered in the rating information database; and 15
    - (ii) the lease or licence with the owner—
      - (A) was entered into before 8 August 2001; and
      - (B) remains in force; and 20
      - (C) either precludes the renegotiation of rent or any other payments that would allow the owner to be reimbursed if the owner were directly liable to pay the charges due on the property or is a lease registered under section 91 of the Land Transfer Act 2017. 25
- (2) **Subsection (1)(a) and (b)** is subject to **subsection (1)(c)**.
- (3) A person described in **subsection (1)** is liable to pay water services charges for the water services that the water organisation provides in respect of the property.
- (4) For the purposes of **subsection (1)(c)**, it is sufficient evidence, unless the contrary is proved, that the person referred to is named in the rating information database and the district valuation roll if,— 30
- (a) in the case of a lease registered under section 91 of the Land Transfer Act 2017, the owner has provided a certified copy of the record of title in relation to the unit that shows that the lease has been registered; ~~or~~ 35
  - (b) in any other case, the owner has provided a statutory declaration to the relevant local authority that **subsection (1)(c)(ii)** applies.

- (5) For the purposes of **subsection (1)(c)(ii)(B)**, a lease must be treated as remaining in force if the lessee has exercised a right to renew the lease on the same terms and conditions.
- (6) In this section,—
- district valuation roll** has the meaning set out in section 5 of the Local Government (Rating) Act 2002 5
- lessee** includes a person to whom the lessee transfers or assigns the lessee's interest in the lease
- property**, in relation to a water organisation, means a property that is in the water organisation's service area, but excludes Māori land. 10
- ~~**rating information database** has the meaning set out in section 5 of the Local Government (Rating) Act 2002.~~
- 67A Water services charges for separately used or inhabited parts of property**
- (1) A water organisation may set separate water services charges for separately used or inhabited parts of a property. 15
- (2) However, **subsection (1)** applies only if the water organisation has defined separately used or inhabited in the organisation's water services strategy.
- 68 Liability for water services charges for Māori land**
- (1) This section applies to Māori land in the service area of a water organisation, ~~but—~~ 20
- (a) **subsections (2) to (7)** apply only to land that is Māori freehold land; and
- (b) **subsection (7A)** applies only to land that is Māori customary land.
- (2) If Māori land is owned legally and beneficially by 1 or 2 owners, the owner or owners are liable to pay water services charges, other than trade waste charges, for the water services that the water organisation provides for the Māori land. 25
- (3) If Māori land in multiple ownership is leased, the lessee is liable to pay water services charges (other than trade waste charges) for the water services that the water organisation provides for the Māori land unless the lease provides for the lessor to be liable to pay the water services charges. 30
- (4) If Māori land in multiple ownership is occupied through an arrangement other than a lease, the occupier is liable to pay water services charges (other than trade waste charges) for the water services that the water organisation provides for the Māori land unless the arrangement provides for the owners or trustees of the land to be liable to pay the water services charges. 35
- (5) If Māori land in multiple ownership is subject to an occupation order made by the Māori ~~Māori~~ Land Court under section 328 of Te Ture Whenua Maori Act 1993 (or an equivalent order made under an Act replaced by that Act), the person in whose favour the order is made is liable to pay water services charges

- (other than trade waste charges) for the Māori land unless the order provides for the owners or trustees of the land to pay the water services charges.
- (6) If none of **subsections (2), (3), (4), and (5)** applies, the following persons are liable to pay the water services charges (other than trade waste charges):
- (a) for Māori land owned by more than 2 persons, other than as trustees, the owners: 5
  - (b) for Māori land vested in trustees, the trustees.
- (7) If an area is divided from Māori land, the person actually using the area is liable to pay the water services charges (other than trade waste charges) for water services that the water organisation provides for the area. 10
- (7A) If the land is Māori customary land, the person who is using the land is liable to pay water services charges, other than trade waste charges, for the water services that the water organisation provides for the land.
- (7B) This section overrides anything to the contrary in **section 67**.
- (8) In this section,— 15
- lease** includes a tenancy at will, and any other tenancy that confers a leasehold interest on the tenant, whether at law or in equity
- Māori land in multiple ownership** means Māori land owned by more than 2 persons
- trustee** includes a body corporate constituted under Part 13 of Te Ture Whenua Maori Act 1993. 20
- Compare: 2022 No 77 s 327
- 68A Rating unit on Māori freehold land may be divided into separate rating areas**
- (1) For the purposes of water services charges, a water organisation may divide a separate rating area from a rating unit on Māori freehold land on the request of a person in accordance with this section. 25
- (2) For the purposes of **subsection (1)**, sections 98A to 98E of the Local Government (Rating) Act 2002 apply with all necessary modifications, including—
- (a) each reference to a local authority must be read as a reference to a water organisation; and 30
  - (b) each reference to rates must be read as a reference to water services charges.
- 69 Limitation on trustee liability for water services charges**
- (1) If trustees are liable to pay the water services charges on rateable Māori freehold land under **section 68**, they— 35
- (a) must pay the charges out of income derived from the land and received by the trustees for the beneficial owners of the land; and

- (b) are liable for the charges only to the extent of the money derived from the land and received by them on behalf of the beneficial owner or owners.
- (2) Trustees seeking to rely on **subsection (1)(b)** must, on request by a water organisation ~~local authority~~, provide copies of any annual financial statements that the trustees ~~beneficial owners~~ have given the beneficial owners ~~trustees~~. 5
- Compare: 2022 No 77 s 328

### **69A Charging order in favour of owner paying water services charges**

- (1) An owner of Māori freehold land in multiple ownership who has paid the water services charges on that land may apply to the Māori Land Court for a charging order against the land for the excess amount of water services charges paid by that owner. 10
- (2) In this section, **excess amount**, in relation to an owner, means the amount paid by an owner in excess of the water services charges properly apportionable to that owner's interest in the land. 15
- (3) The Māori Land Court may make a charging order in favour of that owner for the excess amount if the court is satisfied that the amount paid by the owner is an excess amount.
- (4) Despite **subsections (1) to (3)**, the court may make an order only if it is satisfied,— 20
- (a) if the land is vested in trustees, that all reasonable steps have been taken by the water organisation to obtain payment of the water services charges from the trustees; or
- (b) if a person is liable to pay the water services charges because **section 68(7)** applies, that— 25
- (i) the water organisation has taken proceedings against that person to recover judgment for the amount of the water services charges, or an appropriate portion of the charges, and has been unable to recover the amount of the judgment; or
- (ii) having regard to all the circumstances of the case, those proceedings are unlikely to result in the rates being recovered. 30
- (5) **Subsection (1)** does not apply to an owner who is actually using the land, as provided in **section 68(7)**.

Compare: 2002 No 6 s 103

### **70 Water services charges are debt** 35

Any water services charge that has become payable to a water organisation, and any penalty that is added to an unpaid water services ~~service~~ charge under this subpart, is—

- (a) a debt due to the water organisation; and

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

*Waiver of water services charges*

**70A Water organisation may waive charges and penalties**

- (1) A water organisation may waive either or both of the following: 5
- (a) a water services charge;
- (b) a penalty for an unpaid water services charge (see **section 72**).
- (2) A water organisation may waive a charge or penalty whether it is due to be paid or overdue.
- (3) If a water organisation waives a charge or penalty, it must do so in accordance with its waiver policy. 10

**70B Water organisation must adopt and publish waiver policy**

- (1) A water organisation must prepare and adopt a waiver policy that allows the water organisation to waive either or both of the following:
- (a) a water services charge; 15
- (b) a penalty for an unpaid water services charge.
- (2) When preparing a waiver policy, the water organisation must use its significance and engagement policy to determine—
- (a) what public consultation it will undertake, if any, before adopting the waiver policy; and 20
- (b) if it undertakes public consultation, the form of that consultation.
- (3) A water organisation must make its waiver policy publicly available.

*Penalties for unpaid water services charges*

**71 Authorisation of penalties**

- (1) A water organisation may, by resolution of its board, authorise penalties to be added to water services charges that are not paid by the due date. 25
- (2) A resolution under **subsection (1)** must—
- (a) be made not later than the date on which the water organisation sets the water services charges for the financial year; and
- (b) state— 30
- (i) how the penalty is calculated; and
- (ia) how frequently the penalty may be imposed (for example, monthly or quarterly); and

- (ii) the date on which the penalty is to be added to the amount of the unpaid charges by reference to the due date (for example, each month after the due date or each quarter after the due date).
- ~~(2) A penalty must not exceed 10% of the amount of the unpaid water services charges on the date on which the penalty is added.~~ 5
- (3) A penalty must not exceed,—
- (a) in the year after the due date, 21% of the amount of the unpaid water services charges; and
- (b) in the first 6 months after the due date, 10% of the amount of the unpaid water services charges. 10

Compare: 2002 No 6 s 57

## 72 Penalty may be imposed on previous unpaid penalty ~~Imposition of penalties~~

- ~~(1) A water organisation that resolves under **section 104** to add penalties to unpaid water services charges may impose the following types of penalty:~~ 15
- (a) ~~a penalty on water services charges that are assessed in the financial year for which the resolution under **section 74** is made and that are unpaid after the due date for payment (or after a later date if specified):~~
- (b) ~~a further penalty on water services charges that are assessed in any financial year and that are unpaid on whichever of the following is later—~~ 20
- (i) ~~the first day of the financial year for which the resolution is made:~~
- (ii) ~~5 working days after the date on which the resolution is made:~~
- (c) ~~a further penalty on water services charges to which a penalty has been added under **paragraph (b)**, if the charges are unpaid 6 months after that penalty was added.~~ 25
- ~~(2) The amount of unpaid water services charges to which a penalty may be added includes a penalty previously added to unpaid charges under this section.~~

Compare: 2002 No 6 s 58

## *Sharing information* 30

### 73 **Rating information needed by water organisation**

- (1) A territorial authority must give a water organisation any information that the authority holds, including information in the authority's rating information database, and that the water organisation reasonably needs to charge its consumers, if the water organisation— 35
- (a) requests the information; and
- (b) provides water services to consumers in the authority's district.
- (2) The territorial authority must provide the rating information—

- (a) as soon as is reasonably practicable after receiving the request from the water organisation; and
- (b) on a reasonable cost basis, which may include the authority's costs of preparing and maintaining the rating information database.
- ~~(3) In this section and **section 74**, **rating information database** means the database that is required to be kept under section 27 of the Local Government (Rating) Act 2002.~~ 5
- 74 Rating information that may not be withheld**
- (1) This section applies to a territorial authority that—
- (a) has removed particulars from its rating information database under section 28C(3) of the Local Government (Rating) Act 2002; and 10
- (b) has not restored the particulars under section 28C(4) of that Act.
- (2) The authority—
- (a) must provide, if requested by a water organisation, information that the authority holds but that has been removed from the database; and 15
- (b) may not withhold any particulars that remain removed from its rating information database under section 28C(3) of the Local Government (Rating) Act 2002.
- 75 Water organisation must provide charging information to territorial authorities** 20
- (1) ~~Each~~ By 1 August of each year, each water organisation must give the relevant territorial authority the charging information from the water organisation's records that the authority reasonably requires to calculate entitlements to rebates under the Rates Rebate Act 1973 for the previous rating year.
- (1A) A water organisation must give the information— 25
- (a) in a timely manner that the water organisation and the territorial authority agree upon; and
- (b) on a reasonable cost basis.
- (2) In this section,—
- charging information** includes (without limitation)— 30
- (a) the names and addresses of the persons that the water organisation has charged for water services; and
- (b) the amounts that the water organisation has charged those persons for water services during the previous rating year
- rating year** has the meaning set out in section 2(1) of the Rates Rebate Act 1973. 35
- relevant territorial authority** means a territorial authority in whose district all or part of the water organisation's service area is located.

**75A Information required for land information memoranda**

A water organisation may provide information to a territorial authority for the purposes of the authority issuing a land information memorandum under the Local Government Official Information and Meetings Act 1987.

Subpart 2—Development contributions 5

**76 Interpretation**

(+) In this subpart, unless the context otherwise requires,—

**building consent authority** means a person whose name is entered in the register referred to in section 273(1)(a) of the Building Act 2004

**consent authority** means— 10

- (a) a building consent authority; or
- (b) a consent authority under the Resource Management Act 1991 (*see* section 2(1) of that Act)

~~**building consent authority** means a person whose name is entered in the register referred to in section 273(1)(a) of the Building Act 2004~~ 15

**development** means—

- (a) any subdivision, building (as defined in section 8 of the Building Act 2004), land use, or work that generates a demand for water services infrastructure; but
- (b) does not include the pipes or lines of a network utility operator 20

**development agreement** means a voluntary agreement—

- (a) entered into between the parties specified in **section 101(2)**; and
- (b) for the provision, supply, or exchange of infrastructure, land, or money to provide water services infrastructure—
  - (i) in the service area, or part of a service area, of each water organisation that is a party to the agreement; and 25
  - (ii) in the district, or part of a district, of any territorial authority that is a party to the agreement

**development contribution** means a contribution (from a person who is undertaking development) that— 30

- (a) is required to be made under a development contributions policy; and
- (b) is calculated in accordance with the methodology; and
- (c) comprises 1 or both of the following:
  - (i) money;
  - (ii) land, including a reserve or esplanade reserve (other than in relation to a subdivision consent), but excluding Māori land within 35

the meaning of Te Ture Whenua Maori Act 1993, unless that Act provides otherwise

**development contributions commissioner** means a person appointed under section 199F of the LGA 2002

**development contributions policy** means— 5

- (a) a water organisation's development contributions policy adopted under **section 85**; or
- (b) a territorial authority's development contributions policy adopted under section 102 of the LGA 2002; or
- (c) a development contributions policy described in **paragraph (b)** that has been extended to a water organisation under **section 93** 10

**financial contribution** has the meaning set out in section 108(9) of the Resource Management Act 1991

**methodology** means the methodology for calculating development contributions set out in **section 91(2) to (6)** 15

**network utility operator** has the meaning set out in section 166 of the Resource Management Act 1991

**objector** means a person who objects under **section 96** to the assessed amount of a development contribution ~~lodges a development contributions objection under **section 96**~~ 20

~~**publicly available**, in relation to a document or information, has the meaning set out in **subsection (2)**~~

**resource consent** has the meaning set out in section 2(1) of the Resource Management Act 1991, and includes a change to a condition of a resource consent under section 127 of that Act 25

**water service connection** means a physical connection to a water service provided by, or on behalf of, a water organisation ~~service provider~~.

~~(2) If a territorial authority or a water organisation is required under this subpart to make a document or other information **publicly available**, it must take reasonable steps to— 30~~

- ~~(a) ensure that the document or other information or a copy of the document or other information is accessible to the general public in a manner appropriate to the purpose of the document or other information, including, where practicable, on the territorial authority's or water organisation's internet site; and 35~~
- ~~(b) publicise, in a manner appropriate to the purpose and significance of the document or other information, both the fact that the document or other information is available and the manner in which the document or other information may be accessed.~~

**77 Application**

- (1) Despite anything to the contrary in this subpart, Watercare Services Limited (and any subsidiary of Watercare Services Limited) must not require a development contribution ~~contributions~~ under this Act.
- (2) Each reference to a water organisation in this subpart must be read as excluding Watercare Services Limited (and any subsidiary of Watercare Services Limited). 5

**78 Purpose of development contributions**

- (1) The purpose of ~~the development contributions provisions in~~ this subpart is to enable water organisations to recover from those persons undertaking development a fair, ~~and equitable,~~ and proportionate portion of the total cost of capital expenditure necessary to service an additional or increased demand on water services infrastructure over the long term. 10
- (2) A water organisation must only recover a cost under this subpart if it incurs the cost in relation to water services infrastructure that it owns or will own. 15
- (3) To avoid doubt, a water organisation may recover costs under this subpart for capital expenditure incurred by a territorial authority before the responsibility for the relevant water services infrastructure transfers under a transfer agreement to the water organisation.

Compare: 2002 No 84 s 197AA

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**79 Development contributions principles**

- (1) This section applies to a water organisation performing functions and duties under this subpart when—
- (a) ~~preparing a development contributions policy under **section 85**; or~~
- (b) requiring a development contribution ~~contributions~~ under **section 80**; 25  
or
- (ba) preparing a development contributions policy for adoption under **section 85**; or
- (c) providing information to a territorial authority under ~~for the purposes of **section 93(3)**.~~ 30
- (2) The water organisation must take the following principles into account:
- (a) development contributions must only be required if the effects or cumulative effects of developments have created or will create a requirement for the water organisation to have provided or to provide any of the following water services infrastructure assets for the purpose of providing water services: 35
- (i) new assets:
- (ii) additional assets:
- (iii) assets of increased capacity:

- (b) development contributions must be determined in a way that—
- (i) is generally consistent with the capacity life of the water services infrastructure assets for which they are intended to be used; and
  - (ii) avoids over-recovery of costs allocated to development contributions funding: 5
- (c) cost allocations used to establish development contributions must be determined in a manner that the water organisation considers appropriate after considering—
- (i) the persons who will benefit from the water services infrastructure assets to be provided (including the community as a whole); and 10
  - (ii) the persons who create the need for those assets:
- (d) development contributions must be used—
- (i) for or towards the purpose of the group of water services activities for which the contributions were required; and
  - (ii) for the benefit of the service area or the part of the service area that is identified in the development contributions policy and for which the development contributions were required: 15
- (e) a water organisation must make sufficient information available to demonstrate—
- (i) what it is using development contributions for; and 20
  - (ii) why it is using them for those purposes:
- (f) development contributions must be—
- (i) predictable; and
  - (ii) consistent with— ~~the methodology and schedules in the water organisation's development contributions policy under sections 88 to 91:~~ 25
    - (A) the methodology and schedules in the water organisation's development contributions policy under sections 88 to 91; or
    - (B) if a territorial authority's development contributions policy has been extended to the water organisation under section 93, that policy: 30
- (g) when calculating and requiring ~~a development contribution—contributions~~, water organisations may group together certain developments by geographic area or categories of land use, but must ensure that— 35
- (i) the grouping is done in a manner that balances practical and administrative efficiencies with considerations of fairness and equity; and

- (ii) grouping by geographic area avoids grouping across an entire service area wherever practical.
- (3) Despite anything to the contrary, in **subsection (2)**, ~~In this section, assets~~ includes water services infrastructure and related assets transferred to the water organisation by a territorial authority. 5  
Compare: 2002 No 84 s 197AB
- 80 Power to require contributions for developments**
- (1) A water organisation may require a development contribution to be made to the organisation when any of the following is granted:
- (a) a resource consent for a development within the water organisation’s service area: 10
- (b) a building consent under the Building Act 2004 (whether granted by a territorial authority or a building consent authority) for building work within the water organisation’s service area:
- (c) an authorisation for a water service connection. 15
- (2) A water organisation may only require a development contribution in accordance with—
- (a) a development contributions policy it has adopted in accordance with this subpart; or
- (b) a territorial authority’s development contributions policy that has been extended to the water organisation under **section 93**. 20
- (3) For the purposes of **subsection (2)**, a development contribution must be consistent with the development contributions policy that was in force at the time that the application for a resource consent, building consent, or service connection (accompanied by all required information) was submitted. 25
- (4) A requirement for a development contribution under **subsection (1)(a) or (b)** is not—
- (a) a condition of a resource consent that gives rise to any right of objection or appeal; or
- (b) a matter that gives rise to any right to apply to the chief executive for a determination under the Building Act 2004. 30
- ~~(5) **Subsection (6)** applies if—~~
- ~~(a) a development contributions policy provides for a development contribution under **subsection (1)(b)**; and~~
- ~~(b) a development contribution would be required on the granting of a building consent for building work under the Building Act 2004.~~ 35
- (5) **Subsection (6)** applies if a water organisation’s development contributions policy provides for a development contribution under **subsection (1)(b)**.

- (6) The water organisation may require the development contribution to be made when the relevant building consent authority grants a certificate of acceptance under section 98 of the Building Act 2004 in respect of that building work, but only if the water organisation or a territorial authority would have required a development contribution if a building consent had been granted for the building work. 5
- (7) If Kāinga Ora—Homes and Communities is responsible for granting the consent, authorisation, or certificate referred to in **subsection (1) or (6)**, it—
- (a) may, as appropriate and by agreement with the water organisation and the relevant territorial authority, require the development contribution on behalf of the water organisation; and 10
- (b) must, as soon as reasonably practicable, transfer the development contribution to the water organisation.
- (8) This section does not limit the functions or powers of a consent authority under any other legislation. 15
- (9) In this section, **chief executive** has the meaning given to it in section 7(1) of the Building Act 2004.

Compare: 2002 No 84 s 198

#### **80A Limit on requiring contributions for developments**

- (1) A water organisation must recover its cost of capital expenditure necessary to service an additional or increased demand on water services infrastructure over the long term, only under— 20
- (a) this Act; or
- (b) any other enactment that specifically allows a water organisation to recover that cost. 25
- (2) However, if a person is undertaking development within a water organisation's service area, the water organisation may charge the person a fee or charge to recover the cost of capital expenditure incurred by Watercare Services Limited (Watercare) if that expenditure was necessary to service additional or increased demand on Watercare's water services infrastructure from that development, whether Watercare incurred that expenditure— 30
- (a) solely for that development; or
- (b) jointly with other developments.

#### **81 Information sharing for development contributions agreement**

- (1) ~~This section applies if—~~ 35
- (a) ~~a water organisation has a development contributions policy under **section 85**; or~~

- ~~(b) the development contributions set by a water organisation are included in the development contributions policy of a territorial authority under an agreement entered into under **section 92**.~~
- ~~(2) A water organisation and each territorial authority in whose district the organisation operates must enter into an information sharing agreement. 5~~
- ~~(3) An information sharing agreement—~~
- ~~(a) must specify how the parties to the agreement will share information that the parties require for the purposes of recovering development contributions (for example, information relating to consent applications or to water services infrastructure that the water organisation builds); and 10~~
- ~~(b) may provide for a party to the agreement to compensate another party; and~~
- ~~(c) may be amended only by agreement of the parties to the agreement; and~~
- ~~(d) is binding and enforceable.~~
- (1) This section applies if— 15
- (a) a water organisation adopts a development contributions policy under **section 85**; or
- (b) the development contributions policy of a territorial authority is extended to cover a water organisation under **section 93**.
- (2) The water organisation and each territorial authority in whose district the organisation operates must, on receipt of a request from the other party, provide the information that the other party requires for the purposes of recovering development contributions (for example, information relating to consent applications or to water services infrastructure that the water organisation builds). 20
- (3) A party that receives a request for information under **subsection (2)** must provide the information— 25
- (a) as soon as is reasonably practicable after receiving the request; and
- (b) on a reasonable cost basis.

## **82 Limits on power to require development contributions**

- (1) A water organisation must not require a development contribution for water services infrastructure if, and to the extent that,— 30
- (a) the developer will fund or otherwise provide for the same water services infrastructure; or
- (b) the water organisation or a territorial authority has already required and received a development contribution for the same purpose in respect of the same work, whether on the granting of a building consent or a certificate of acceptance; or 35
- (c) a third party has funded or provided, or undertaken to fund or provide, the same water services infrastructure.

- (2) Despite **section (1)(b)**, a water organisation may require an additional development contribution for the same purpose if the additional contribution is required to reflect an increase in the scale or intensity of the development since a previous contribution was required.
- (3) This section does not prevent a water organisation from accepting from a person, with that person's agreement, additional contributions for water services infrastructure. 5
- (4) This section does not prevent a water organisation from requiring a development contribution if—
- (a) income from the following is being used or will be used to meet a proportion of the capital costs of the water services infrastructure for which the development contribution will be used: 10
- (i) water services charges (*see subpart 1 of Part 3*):
- (ii) interest and dividends from investments:
- (iii) borrowings: 15
- (iv) proceeds from asset sales; or
- (b) a person required to make the development contribution has paid or will pay rates or water services charges in respect of the water services infrastructure.
- ~~(5) A water organisation may use the following contributions only for the purposes for which they were collected: 20~~
- ~~(a) development contributions collected by a territorial authority that has transferred water services infrastructure and the associated development contributions to the water organisation:~~
- ~~(b) financial contributions collected under the Resource Management Act 1991. 25~~
- (6) A territorial authority must not require a development contribution or financial contribution for the same purpose for which, and to the extent that, a water organisation has required and received a development contribution.
- (7) ~~In this section, **financial contribution** has the meaning given in section 108(9) of the Resource Management Act 1991. 30~~

Compare: 2002 No 84 s 200(1)–(4)

**83 Consequential limits on territorial authority's ~~development contributions~~ policy on development contributions or financial contributions**

- ~~(1) This section applies if a water organisation adopts a development contributions policy that requires development contributions for water services infrastructure that is covered by the development contributions policy of a territorial authority. 35~~

- (1) This section applies if—

- (a) a territorial authority has a policy on development contributions or financial contributions that relates to water services; and
- (b) responsibility for providing those water services is transferred to a water organisation under a transfer agreement.
- (2) The territorial authority must amend its ~~development contributions~~ policy on development contributions or financial contributions to remove the duplication with the water organisation's development contributions policy. 5
- (3) The amendment—
- (a) must be made by resolution of the governing body of the territorial authority; and 10
- (b) is not required to be made using the process in the LGA 2002 or the Resource Management Act 1991; and
- ~~(e) must have effect from the date on which the water organisation adopted its development contributions policy.~~
- (c) in the case of an amendment to the provisions of the policy that relate to development contributions, must take effect from the earlier of— 15
- (i) the date on which the water organisation adopts its development contributions policy under **section 85 or 85A**; and
- (ii) the end of the calendar month after the date on which the transfer agreement takes effect; and 20
- (d) in the case of an amendment to the provisions of the policy that relate to financial contributions, must take effect from the date on which the water organisation adopts its development contributions policy under **section 85 or 85A**.
- (4) Despite **subsection (3)(c) and (d)**, the amendment does not prevent the territorial authority from requiring a development contribution or financial contribution in relation to water services infrastructure that is the subject of an application for a resource consent, a building consent, or a water service connection that was lodged ~~— before the water organisation adopted its development contributions policy.~~ 25
- (a) in the case of a development contribution, before the earlier of—
- (i) the date on which the water organisation adopted its development contributions policy under **section 85 or 85A**; and
- (ii) the end of the calendar month after the date on which the transfer agreement took effect; or 30
- (b) in the case of a financial contribution, before the date on which the water organisation adopted its development contributions policy under **section 85 or 85A**. 35

**84 Basis on which water organisation may require development contributions**

- (1) A water organisation may require development contributions if—
- (a) the effect of the development is to require new or additional assets or assets of increased capacity for the purposes of providing water services; and 5
  - (b) as a consequence, the water organisation—
    - (i) incurs capital expenditure to provide appropriately for water services infrastructure; or
    - (ii) is liable to pay a development contribution to a territorial authority. 10
- (2) This section does not prevent a water organisation from requiring a development contribution that is to be used to pay, in full or in part, for capital expenditure already incurred by the water organisation or ~~the~~ territorial authority in anticipation of the development.
- (3) In **subsection (1), effect** includes the cumulative effects that a development may have in combination with other developments. 15

Compare: 2002 No 84 s 199

*Development contributions policy***85 Development contributions policy**

- (1) A water organisation may adopt a development contributions policy. 20
- (2) A development contributions policy must not be inconsistent with the principles set out in the Preamble to Te Ture Whenua Maori Act 1993.
- (3) A water organisation that adopts a development contributions policy must publish the policy on an internet site maintained by, or on behalf of, the water organisation. 25
- (4) A water organisation must review its development contributions policy at least once every 3 years.
- (5) Before adopting, amending, or revoking a development contributions policy, a water organisation must ~~—undertake consultation in accordance with section 82 of the LGA 2002 (which applies, with any necessary modifications, for that purpose)~~. 30
- (a) consult each territorial authority within the water organisation's service area; and
  - (b) do so in accordance with section 82 of the LGA 2002 (which applies, with any necessary modifications, for that purpose). 35

Compare: 2002 No 84 s 102(3A), (4)

**85A Initial development contributions policy**

- (1) For the purposes of adopting a policy under **section 85(1)**, a water organisation may adopt, as its initial development contributions policy, the relevant parts of 1 or more territorial authorities' development contributions policies that were in place immediately before the territorial authorities were required to amend their policies under **section 83**. 5
- (2) **Subsection (1)** applies only during the period between—
- (a) the responsibility for providing water services being transferred to the water organisation under a transfer agreement; and
- (b) the water organisation adopting its own development contributions policy under **section 85**. 10
- (3) Despite **section 85(5)**, a water organisation is not required to consult before adopting a territorial authority's development contributions policy under **subsection (1)**. 15

**86 Development contributions policy and methodology must be publicly available for public inspection** 15

- (1) If a water organisation's development contributions policy requires development contributions, the water organisation must keep the following available for public inspection:
- (a) the organisation's development contributions policy; and 20
- (b) the full methodology that demonstrates how the calculations for those development contributions were made.
- (2) The places ~~within the water organisation's service area~~ at which a water organisation ~~it~~ must keep the information specified in **subsection (1)** available for public inspection are— 25
- (a) the principal public office of the water organisation; and
- (b) such other places within its service area that the water organisation considers necessary to provide members of the public with reasonable access to the policy and the methodology.

**87 Contents of development contributions policy** 30

- (1) A development contributions policy must, in relation to the purposes for which development contributions may be required,—
- (a) summarise and explain the total cost of capital expenditure (identified in the water organisation's water services strategy (*see section 190*) or under **section 91**) that the water organisation expects to incur to meet the increased demand for water services infrastructure resulting from growth; and 35
- (b) state the proportion of that total cost of capital expenditure that will be funded by—

- (i) development contributions; and
- (ii) other sources of funding; and
- (c) explain, by reference to the considerations set out in section 101(3) of the LGA 2002 (as if each reference in that section to a local authority were a reference to a water organisation), why the water organisation has determined to use the funding sources referred to in **paragraph (b)** to meet the expected total cost of capital expenditure referred to in **paragraph (a)**; and 5
- (d) identify separately each group ~~the groups~~ of water services activities for which a development contribution will be required and, in relation to each group of water services activities, specify the total amount of funding to be sought by development contributions; and 10
- (e) if development contributions will be required,—
- (i) ~~comply with the requirements set out in sections 85 to 87; and~~
- (ii) contain a schedule of assets in accordance with **section 88**; and 15
- (iii) contain a schedule of development contributions in accordance with **section 89**; and
- (iv) include, in summary form,—
- (A) an explanation of, and justification for, the way each development contribution in the schedule of development contributions is calculated; and 20
- (B) the significant assumptions underlying the calculation of the schedule of development contributions, including an estimate of the potential effects, if there is a significant level of uncertainty as to the scope and nature of the effects; 25
- (C) the conditions and criteria (if any) that will apply in relation to the remission, postponement, or refund of development contributions, or the return of land.
- (2) Subject to **subsection (3)**, a development contribution provided for in a development contributions policy may be increased without consultation, formality, or a review of the development contributions policy. 30
- (3) A development contribution may be increased under **subsection (2)** only if—
- (a) the increase does not exceed the result of multiplying together—
- (i) the rate of increase (if any), in the Producers Price Index since the development contribution was last set or increased; and 35
- (ii) the proportion of the total costs of capital expenditure to which the development contribution will be applied that does not relate to interest and other financing costs; and

- (b) before any increase takes effect, the water organisation makes publicly available information setting out—
- (i) the amount of the newly adjusted development contribution; and
  - (ii) how the increase complies with the requirements of **paragraph (a)**. 5
- (4) To avoid doubt,—
- (a) a development contributions policy may also relate to contributions transferred to the water organisation under **section 93A**; and
  - (b) this section does not prevent a water organisation from calculating development contributions based on capital expenditure that a territorial authority has incurred; and 10
  - (c) this section does not prevent a water organisation from calculating development contributions over the capacity life of assets or groups of assets for which development contributions are required, so long as—
    - (i) the assets that have a capacity life extending beyond the period covered by the water organisation’s water services strategy are identified in the organisation’s development contributions policy; and 15
    - (ii) development contributions per unit of demand do not exceed the maximum amount allowed by **section 91**. 20

Compare: 2002 No 84 ss 106, 201

## **88 Schedule of assets for which development contributions will be used**

- (1) The schedule of assets contained in a water organisation’s development contributions policy must list—
- (a) each new asset, additional asset, asset of increased capacity, or programme of works for which the development contributions set out in the schedule of development contributions are intended to be used or have already been used; and 25
  - (b) the estimated capital cost of each asset described in **paragraph (a)**; and
  - (c) the proportion of the capital cost that the water organisation proposes to recover through development contributions; and 30
  - (d) the proportion of the capital cost that the water organisation proposes to recover from other sources.
- (2) The schedule must also include assets for which capital expenditure has already been incurred by a territorial authority or a water organisation in anticipation of development. 35
- (3) The schedule—
- (a) must list assets according to—

- (i) the parts of the water organisation's service area for which the development contribution is required; and
  - (ii) ~~each the~~ group of water services activities for which the development contribution is required; and
- (b) may list assets in logical and appropriate groups that reflect the intended or completed programmes of works or capacity expansion. 5
- (4) A water organisation may ~~amend-make changes to~~ the schedule of assets at any time without consultation or further formality if—
  - (a) the ~~amendment-change~~ is being made to reflect a change of circumstances in relation to an asset that is listed in the schedule or is to be added to the schedule; and 10
  - (b) the ~~amendment-change~~ does not increase the total or overall development contribution that will be required to be made to the water organisation.
- (5) If the water organisation is satisfied that the schedule or any part of it is too large or impractical to print in hard copy form, the water organisation may— 15
  - (a) provide the schedule in a publicly accessible electronic format; and
  - (b) provide and maintain an electronic link from the development contributions policy to the schedule (if the policy is on the internet) or state where a hard copy of the schedule can be found and inspected. 20

Compare: 2002 No 84 s 201A

## **89 Schedule of development contributions**

- (1) The schedule of development contributions contained in a water organisation's development contributions policy must specify—
  - (a) the development contributions payable in the water organisation's service area, calculated, in each case, in accordance with the methodology in respect of water services infrastructure; and 25
  - (b) the event that will give rise to a requirement for a specified development contribution in accordance with **section 80**.
- (2) The schedule must specify development contributions according to— 30
  - (a) the parts of the water organisation's service area for which they may be required; and
  - (b) ~~each the~~ group of water services activities for which they are required.

Compare: 2002 No 84 s 202

## **90 Development contributions policy must contain reconsideration process** 35

- (1) If a water organisation has determined to seek funding for water services infrastructure under this subpart, its development contributions policy must set out the process, which must comply with **sections 94 and 95**, for reconsidering a requirement ~~under sections 94 and 95~~.

- (2) The process for reconsideration must set out—
- (a) how the request is lodged with the water organisation; and
  - (b) the steps that the water organisation will take when reconsidering the requirement.
- (3) If a water organisation and a territorial authority have entered, or intend to enter, into an agreement under **section 92** that provides for the territorial authority to administer the water organisation’s reconsideration process, the water organisation’s development contributions policy must outline the reconsideration process that is contained in, or is intended to be contained in, that agreement. 5 10

Compare: 2002 No 84 s 202A

## 91 Maximum development contributions

- (1) This section describes how a water organisation must calculate the maximum amount of development contributions that can be required for a unit of demand.
- (2) Development contributions for water services infrastructure must not exceed the amount calculated by multiplying the cost of a relevant unit of demand calculated under **subsections (3) to (5)** by the number of units of demand that the water organisation has attributed to the development in accordance with **subsection (6)** (as amended for any Producers Price Index adjustment adopted in the water organisation’s development contributions policy in accordance with **section 87(2) and (3)**). 15 20
- (3) ~~In order to~~ To calculate the maximum development contribution in respect of a group of water services activities for which a separate development contribution is to be required, a water organisation must first—
- (a) identify the total cost of the capital expenditure that the organisation expects to incur in respect of the group of water services activities in order to meet increased demand resulting from growth within the service area, or part of the service area; and 25
  - (b) identify the share of that expenditure attributable to each unit of demand, using the units of demand for the group of water services activities by which the organisation has assessed the impact of growth (*see* **subsection (6)**). 30
- (4) A water organisation may identify capital expenditure for the purposes of calculating the development contributions in respect of assets or groups of assets ~~for a group of water services activities~~ that— 35
- (a) will be built after the period covered by the organisation’s water services strategy; and
  - (b) are ~~is~~ identified in the organisation’s development contributions policy.

- (5) The total cost of the capital expenditure identified in **subclause (3)(a)** may, in part, relate to assets intended to be delivered after the period covered by a water organisation's water services strategy if—
- (a) the assets concerned are identified in the organisation's development contributions policy; and 5
  - (b) the total cost of capital expenditure does not exceed that which relates to the period over which development has been assessed for the purpose of setting development contributions.
- (6) For the purposes of this section, a water organisation ~~territorial authority~~ must demonstrate in its methodology that it has attributed units of demand to particular developments or types of development on a consistent and equitable basis. 10

Compare: 2002 No 84 s 203

## 92 Agreement to administer development contributions policy

- (1) A water organisation and a territorial authority in whose district the organisation operates may enter into a written agreement for the territorial authority to administer all or any part of the water organisation's development contributions policy on behalf of the organisation. 15
- (2) A territorial authority must not administer any part of a water organisation's development contributions policy unless they have entered into a written agreement under this section. 20
- (3) An agreement under this section must specify—
- (a) which parts of the development contributions policy the territorial authority will administer; and
  - (b) which parts of the development contributions policy (if any) the water organisation will administer; and 25
  - (c) what the water organisation will pay the territorial authority for its administering activities under the agreement; and
  - (d) the approach to recovering costs under **section 99**, which must ensure that— 30
    - (i) a person is not required to pay more than the actual and reasonable costs; and
    - (ii) a water organisation and a territorial authority do not attempt to recover the same costs.
- (4) An agreement under this section— 35
- (a) may be amended only by agreement of the parties to the agreement; and
  - (b) is binding and enforceable.
- (5) If a water organisation and a territorial authority enter into an agreement,—

- (a) the territorial authority must provide the development contributions it collects to the water organisation as soon as reasonably practicable; and
- (b) the parties to the agreement must make the agreement publicly available.
- (6) For the purposes of this section, administering a development contributions policy includes— 5
- (a) assessing an application for resource consent or building consent against the water organisation’s development contributions policy and determining the level of development contributions (if any) the developer is required to pay; and
- (b) determining the level of development contributions a developer is required to pay when applying for a water service connection; and 10
- (c) invoicing a developer for development contributions; and
- (ca) administering any postponed payments of a development contribution; and
- (d) collecting any outstanding amounts of development contributions, including taking any debt recovery steps; and 15
- (e) administering the reconsideration process; and
- (f) administering the objection process; and
- (g) transferring any development contributions that are paid to the territorial authority to the water organisation. 20

**93 Territorial authority may extend development contributions policy to water organisation**

- (1) If a water organisation does not adopt a development contributions policy, the organisation and a territorial authority in whose district the water organisation operates may agree that the territorial authority will extend its development contributions policy to also cover the operations of the water organisation. 25
- (2) If a territorial authority extends its development contributions policy, ~~the policy must contain the information required to be included in a water organisation’s policy under **section 87**.~~
- (a) the policy must contain the information required to be included in a water organisation’s policy under **section 87**; and 30
- (b) the territorial authority must provide the relevant development contributions it collects to the water organisation as soon as is reasonably practicable.
- (3) For the purposes of **subsection (2)(a)**,— 35
- (a) the water organisation must provide the necessary information to the territorial authority; and
- (b) the territorial authority must not alter any of the information without the water organisation’s agreement.

- (4) An agreement under **subsection (1)** must include how the territorial authority will consult on (in accordance with section 106(6) of the LGA 2002) and administer the water organisation's development contributions.
- (5) To avoid doubt, a water organisation that operates in the district of more than 1 territorial authority may agree with 1 or more of those territorial authorities that the territorial authority will extend its development contributions policy to cover the operations of the water organisation. 5

*Transfer to new water organisation*

**93A Transfer to new water organisation**

- (1) This section applies when the responsibility for providing water services is transferred from a territorial authority to a water organisation under a transfer agreement. 10
- (2) The territorial authority must, as of the date on which the transfer agreement takes effect, transfer the following to the water organisation:
- (a) any development contribution or financial contribution (or any part of a development contribution or financial contribution) that the territorial authority received in respect of the relevant water services infrastructure to which the transfer agreement relates, if the infrastructure costs are yet to be incurred: 15
- (b) all relevant information, including the purpose for which the contribution was required. 20
- (3) After the date on which the transfer agreement takes effect,—
- (a) the territorial authority must continue to require development contributions or financial contributions in respect of developing the water services infrastructure to which the transfer agreement relates, for— 25
- (i) applications for resource consents or building consents that were lodged before the date on which the transfer agreement took effect; or
- (ii) applications for service connections that were granted before the date on which the transfer agreement took effect; and 30
- (b) the territorial authority must, as soon as reasonably practicable, transfer all development contributions and financial contributions received under **paragraph (a)** to the water organisation.

**93B Limitation on use of transferred contributions**

A water organisation that receives a development contribution or financial contribution under **section 93A(2) or (3)(b)** must use the contribution only for the purpose for which it was collected. 35

*Reconsideration of requirement for development contribution***94 Right to reconsideration of requirement for development contribution**

- (1) If a water organisation requires a person to make a development contribution, the person may request the water organisation to reconsider the requirement if the person has grounds to believe that— 5
- (a) the development contribution was incorrectly calculated or assessed under the water organisation’s development contributions policy; or
  - (b) the water organisation incorrectly applied its development contributions policy; or
  - (c) the information used to assess the person’s development against the development contributions policy, or the way the water organisation has recorded or used that information, was incomplete or contained an error. 10
- (2) A request for a reconsideration must be lodged and decided according to the process set out in the water organisation’s development contributions policy under **section 90**. 15
- (3) A request for a reconsideration must be made within 10 working days after the date on which the person lodging the request receives notice from the water organisation of the amount of development contribution that the water organisation requires.
- (4) A person may not ~~request~~ ~~apply for~~ a reconsideration of a requirement if the person has already ~~objected~~ ~~lodged an objection~~ to that requirement under **section 96**. 20

Compare: 2002 No 84 s 199A

**95 Water organisation to notify outcome of reconsideration**

- (1) The water organisation must, within 15 working days after the date on which it receives all required relevant information relating to a request for reconsideration under **section 94**, give written notice of the outcome of its reconsideration to the person who made the request. 25
- (2) The person who requested the reconsideration may object to the outcome of the reconsideration in accordance with **section 96**. 30

Compare: 2002 No 84 s 199B

*Objections***96 Right to object to development contribution**

- (1) A person may, on any ground set out in **section 97**, object to the assessed amount of ~~a~~ ~~the~~ development contribution that a water organisation has required from the person. 35

- (2) The right of objection conferred by **subsection (1)** applies regardless of whether the person has earlier requested a reconsideration of the requirement for the a-development contribution.
- (3) The right of objection conferred by this section does not apply to challenges to the content of a water organisation's development contributions policy. 5

Compare: 2002 No 84 s 199C

### 97 Scope of objections

A person may object to a development contribution requirement only on the ground that the water organisation has—

- (a) failed to properly take into account features of the objector's development that, on their own or cumulatively with those of other developments, would substantially reduce the impact of the development on requirements for water services infrastructure in the water organisation's service area or parts of that service area; or 10
- (b) required a development contribution for water services infrastructure not required by, or related to, the objector's development, whether on its own or cumulatively with other developments; or 15
- (c) required a development contribution in breach of **section 82**; or
- (d) incorrectly applied its development contributions policy to the objector's development. 20

Compare: 2002 No 84 s 199D

### 98 Procedure for objections

- (1) Sections 199F to 199P and Schedule 13A of the LGA 2002 apply, with all necessary modifications, in relation to objections made under **section 96**.
- (2) The modifications include the following: 25
- (a) a reference to a territorial authority must be read as a reference to a water organisation:
- (b) a reference to the district of a territorial authority must be read as a reference to the whole or a part of the service area of a water organisation.

### 99 Costs of objections

- (1) A person who objects under **section 96** to a development contribution requirement is liable to pay the water organisation's actual and reasonable costs in respect of the objection. 30
- (2) The costs that the water organisation may recover under this section are the actual and reasonable costs incurred by it in respect of— 35
- (a) the selection, engagement, and employment of the development contributions commissioners; and
- (b) secretarial and administrative support for the objection process; and

- (c) preparing for, organising, and holding the hearing.
- (3) A water organisation may, in any particular case and in its absolute discretion, waive or remit the whole or any part of any costs that would otherwise be payable under this section.
- (4) If a territorial authority administers the water organisation's objections process under an agreement entered into under **section 92**, the territorial authority may recover the costs under this section on behalf of the water organisation. 5
- (5) However,—
- (a) the territorial authority's ability to recover the costs applies only to the extent specified in the agreement; and 10
- (b) the territorial authority must not recover, or attempt to recover, any costs from a person if the water organisation has already recovered those costs; and
- (c) the water organisation must not recover, or attempt to recover, any costs from a person if the territorial authority has already recovered those costs. 15

Compare: 2002 No 84 s 150A

### *Use of development contributions*

#### **100 Use of development contributions by water organisation**

- (1) A water organisation that receives a development contribution (whether received under **section 80** or transferred from a territorial authority)— 20
- (a) must use it for, or towards, the capital expenditure of the water services infrastructure for which the contribution was required, which may also include the development of the water services infrastructure; but
- (b) must not use it for the maintenance of the water services infrastructure. 25
- (2) Despite **subsection (1)**, a water organisation may use a development contribution for or towards any assets other than those set out in the schedule of assets required by **section 87(1)(e)(ii)** as at the time the development contribution was required if—
- (a) the assets are for the same general function and purpose as those that were set out in the schedule as at the time the development contribution was required; and 30
- (b) the schedule has been amended—updated in accordance with **section 88(4)**, or will be amended—updated when the development contributions policy is next ~~changed or~~ reviewed under **section 85(4)**, to identify the assets that the development contribution has been, or is intended to be, used for or towards. 35

Compare: 2002 No 84 s 204

*Development agreements***101 Request to enter development agreement**

- (1) A water organisation may enter into a development agreement with a developer if either party requests in writing that the parties enter into a development agreement. 5
- (2) The parties to a development agreement—
- (a) must include at least 1 water organisation and 1 developer; and
  - (b) may also include—
    - (i) 1 or more additional water organisations; or
    - (ii) 1 or more additional developers; or 10
    - (iii) 1 or more territorial authorities.
- (3) A territorial authority may ~~enter into a development agreement under this subpart on behalf of a water organisation.~~
- (a) may enter into a development agreement under this subpart on behalf of a water organisation; and 15
  - (b) may administer a development agreement under this subpart on behalf of a water organisation.

Compare: 2002 No 84 s 207A

**102 Response to request to enter development agreement**

- (1) A water organisation that receives a written request from a developer to enter into a development agreement must consider that request as soon as practicable. 20
- (2) The water organisation may—
- (a) accept the request in whole or in part subject to any amendments agreed to by the parties; or 25
  - (b) decline the request.
- (3) The water organisation must give the developer a written notice of its decision and the reasons for its decision.
- (4) A developer who receives a request from a water organisation to enter into a development agreement may, in a written response to the water organisation,— 30
- (a) accept the request in whole or in part subject to any amendments agreed to by the parties; or
  - (b) decline the request.

Compare: 2002 No 84 s 207B

**103 Content of development agreement** 35

- (1) A development agreement must be in writing and be signed by all parties that are to be bound by the agreement.

- (2) A development agreement must include—
- (a) the legal name of each water organisation that will be bound by the agreement; and
  - (b) the legal name of each developer that will be bound by the agreement; and 5
  - (c) the legal name of any territorial authority that will be bound by the agreement; and
  - (d) a description of the land to which the agreement will relate, including its legal description and, if applicable,—
    - (i) the street address of the land; and 10
    - (ii) other identifiers of the location of the land, its boundaries, and extent; and
  - (e) details of the water services infrastructure (if any) that each party to the agreement will provide or pay for.
- (3) A development agreement may also include information relating to all or any of the following: 15
- (a) a description of the development to which the agreement will relate:
  - (b) when the water services infrastructure will be provided, including whether the infrastructure will be provided in stages:
  - (c) who will own, operate, and maintain the infrastructure being provided: 20
  - (d) the timing and other arrangements for any vesting of infrastructure in a party:
  - (e) the timing and other arrangements for any transfer of land between the parties:
  - (f) the mechanism for the resolution of disputes: 25
  - (g) the nature, amount, and timing of any monetary payments to be made between the parties:
  - (h) the enforcement of the development agreement by a suitable means in the event of a breach, for example, by—
    - (i) a guarantee; or 30
    - (ii) a bond; or
    - (iii) a memorandum of encumbrance:
  - (i) other matters the parties agree to include.
- (4) A development agreement must not contain any provision that limits a water organisation's powers under this subpart. 35

Compare: 2002 No 84 s 207C

**104 Effect of development agreement**

- (1) A development agreement is a legally enforceable contract.
  - (2) A development agreement has no force until all parties that will be bound by the agreement have signed it.
  - (3) A development agreement does not oblige any water organisation or consent authority (as applicable) to—
    - (a) grant a resource consent under the Resource Management Act 1991; or
    - (b) issue a building consent under the Building Act 2004; or
    - (c) issue a code compliance certificate under the Building Act 2004; or
    - (d) grant a certificate under section 223(3) of the Resource Management Act 1991; or
    - (e) grant an authorisation for a water service connection.
  - (4) However, a water organisation or consent authority (as applicable) must not refuse to grant or issue a consent, certificate, or authorisation referred to in **subsection (3)** on the basis that a development agreement has not been entered into.
  - (5) A development agreement prevails in the event of any conflict between it and the application of a relevant development contributions policy in relation to any matter concerning the agreement.
- Compare: 2002 No 84 s 207D

**105 Restrictions on use of development agreement**

- (1) A development agreement must not require a developer to provide water services infrastructure—
    - (a) of a nature or type for which the developer would not otherwise have been required to make a development contribution; or
    - (b) of a higher standard than that for which the developer would otherwise have been required to make a development contribution; or
    - (c) of a scale that exceeds that for which the developer would otherwise have been required to make a development contribution.
  - (2) However, a developer may agree to provide infrastructure described in **subsection (1)(a), (b), or (c)**.
- Compare: 2002 No 84 s 207E

**106 Amendment or termination of development agreement**

- (1) The parties to a development agreement may agree in writing to amend the agreement at any time.
- (2) A development agreement terminates—
  - (a) on a date specified in the agreement; or

- (b) on the date on which all actions, undertakings, or obligations under the agreement have been fulfilled; or
- (c) on a date mutually agreed in writing by all parties to the agreement.

Compare: 2002 No 84 s 207F

*Power to delay processes if development contributions not paid* 5

## 107 Powers of water organisation if development contributions not made

- (1) A water organisation that has required a development contribution under **section 80** may do the following until the contribution is made:
  - (a) in the case of a development contribution required under **section 80(1)(a)**, request the relevant consent authority to— 10
    - (i) withhold a certificate under section 223(3) of the Resource Management Act 1991:
    - (ii) prevent the commencement of a resource consent under the Resource Management Act 1991:
  - (b) in the case of a development contribution required under **section 80(1)(b)**, request the relevant consent authority to withhold a code compliance certificate under section 95 of the Building Act 2004: 15
  - (c) in the case of a development contribution required under **section 80(1)(c)**, withhold a service connection to the relevant development:
  - (ca) in the case of a development contribution required under **section 80(6)**, request the relevant building consent authority to withhold a certificate of acceptance under section 99 of the Building Act 2004: 20
  - (d) in any case, register the development contribution under subpart 5 of Part 3 of the Land Transfer Act 2017, as a charge on the land in respect of which the development contribution was required. 25
- (2) When making a request under **subsection (1)(a) or (b)**, the water organisation must provide sufficient evidence to the consent authority to support the request.
- (3) **Subsection (4)** applies— 30
  - (a) in the circumstances to which **subsection (1)** applies; and
  - (b) if Kāinga Ora—Homes and Communities is responsible for granting the consent, authorisation, or certificate.
- (4) Kāinga Ora—Homes and Communities may do the following until the development contribution is made: 35
  - (a) in the case of a development contribution required under **section 80(1)(a)**,—
    - (i) withhold a certificate made under section 223(3) ~~224(e)~~ of the Resource Management Act 1991:

- (ii) prevent the commencement of a resource consent under the Resource Management Act 1991:
- (b) in the case of a development contribution required under **section 80(1)(b)**, withhold a code compliance certificate under section 95 of the Building Act 2004: 5
- (c) in the case of a development contribution required under **section 80(1)(c)**, exercise the power set out in **subsection (1)(c)** on the water organisation's behalf, as appropriate and by agreement with the water organisation. 10

Compare: 2002 No 84 s 208

10

*Refund of development contributions, etc*

**108 Refund of money and return of land if development does not proceed**

- (1) This section applies if a consent holder has made a development contribution required by a water organisation and—
  - (a) the resource consent for the development— 15
    - (i) lapses under section 125 of the Resource Management Act 1991; or
    - (ii) is surrendered under section 138 of that Act; or
  - (b) the building consent for the development lapses under section 52 of the Building Act 2004; or 20
  - (c) the development or building in respect of which the resource consent or building consent was granted does not proceed; or
  - (d) the water organisation does not provide the water services infrastructure for which the development contribution was required. 25
- (1A) This section also applies if— 25
  - (a) a consent holder has made a development contribution that was required by a territorial authority and transferred to a water organisation; and
  - (b) 1 or more of paragraphs (a) to (d) of subsection (1) applies.
- (2) The water organisation—
  - (a) must return to the consent holder, or to their personal representative, any development contribution that the consent holder has made in relation to the relevant development; but 30
  - (b) may retain a portion of the contribution of a value equivalent to the costs incurred by the water organisation or a territorial authority in relation to the development or building and its discontinuance. 35

Compare: 2002 No 84 s 209

*Crown exempt from development contributions***109 Crown exempt from development contributions**

- (1) The Crown is exempt from making any development contributions under this subpart.
- (2) However, this section— 5
- (a) does not apply to Kāinga Ora—Homes and Communities; and
- (b) does not prevent the Crown from making a payment to a water organisation to recognise the demand a Crown development places on the water organisation’s water services infrastructure.

Compare: 2022 No 77 s 351

10

**Subpart 3—Water services networks: connections****110 Bylaws for purposes of connections**

- (1) Without limiting **section 347**, a territorial authority may make water services bylaws for its district for the purposes of regulating connections to water services networks. 15

**(1A) A water services bylaw under **subsection (1)**—**

- (a) is made under **section 347**; and
- (b) must provide for a process for a water service provider to approve connections to water services networks.
- (2) A process for approving connections must consist ~~water services bylaw made under this section must provide for a process for approving connections from water services networks that consists~~ of the following 3 steps: 20
- (a) step 1: approval of concept plans;
- (b) step 2: approval of engineering plans;
- (c) step 3: sign-off. 25
- (3) However, the bylaw must allow—
- (a) a person to apply for approval of more than 1 step at the same time; and
- (b) the water service provider to grant approval for more than 1 step at the same time; and
- (ba) the water service provider to require the applicant to confirm that they have obtained any relevant resource consents before the water service provider makes the connection to the water services network; and** 30
- (c) an applicant ~~a person~~ to amend their application for approval at any stage before the water service provider decides whether to approve the application; and 35
- (d) an applicant ~~a person~~ to amend their application for approval after the water service provider has made their decision (in which case the water

service provider must consider the amended application using the same process that it uses for any other application).

- (4) A bylaw ~~made~~ under this section must comply with any ~~the~~ National Engineering Design Standards made under the Water Services Act 2021.

### 111 Approval 5

A water service provider may provide written approval for the purposes of the Resource Management Act 1991 after it has granted approval under step 1 or step 2 of the approval process (depending on which step is required under the network connection requirements).

### 112 Application of water services bylaws for connections 10

The 3-step approval process set out in a water services bylaw under **section 110** applies to a person who wishes to—

- (a) make a connection ~~connect a pipe~~ to one of the territorial authority's water services networks; or
- (b) make structural changes to premises that would affect the flow rate through an existing connection to a water services network (for example, when a house is replaced with an apartment block). 15

### 113 Requirements of 3-step approval process for connections

A water services bylaw made under **section 110** must specify that—

- (a) step 1 of the approval process is to enable the water service provider to be satisfied that, ~~in theory~~, the relevant network has capacity for the proposed activity; and 20
- (b) step 2 of the approval process is to enable the water service provider to be satisfied that, based on detailed engineering plans, the proposed activity can be implemented; and 25
- (c) step 3 of the approval process is to enable the water service provider to be satisfied that, based on inspections of completed works and supporting documentation, ~~the that~~ work has been completed to an acceptable standard and in accordance with the approvals granted under steps 1 and 2. 30

### **113A Internal review of decision under bylaw for purposes of connection**

- (1) A person whose application for a connection to a water service network is declined may apply to the territorial authority for an internal review of that decision (the original decision).
- (2) A person who applies for an internal review must do so— 35
- (a) no later than—
- (i) 20 working days after the day on which the original decision first came to the person's notice; or

- (ii) any later date that the territorial authority allows; and
- (b) in the manner and form required by the territorial authority.

### **113B Decision of territorial authority**

- (1) A territorial authority that receives an application for internal review under **section 113A** must review the original decision and make a new decision— 5
- (a) as soon as practicable; and
  - (b) in any case, within 20 working days after receiving the application for internal review.
- (2) The chief executive of the territorial authority must appoint, to undertake the internal review, a person who was not involved in making the original decision. 10
- (3) The person appointed to undertake the review (the **appointed person**) may recommend that the territorial authority confirm, vary, set aside, or replace all or part of the original decision.
- (4) The appointed person may seek further information from the applicant, and, if they do,— 15
- (a) the applicant must provide the information to the appointed person within the period (not less than 7 working days) specified in the request for information; and
  - (b) the period specified in **subsection (1)(b)** ceases to run until the applicant provides the information. 20
- (5) If the applicant does not provide the further information to the appointed person within the required time,—
- (a) the appointed person may make a recommendation to the territorial authority on the basis of the information the appointed person holds; and
  - (b) the territorial authority may make a decision on the basis of the recommendation. 25
- (6) If the original decision is not varied, set aside, or replaced within the period specified in **subsection (1)(b)**, the original decision must be treated as having been confirmed by the territorial authority.

### **113C Notice of decision on internal review**

As soon as practicable after the territorial authority makes a decision in accordance with **section 113B**, the chief executive of the territorial authority must notify the applicant in writing of— 30

- (a) the decision on the internal review; and
- (b) the reasons for the decision. 35

**113D Stay of reviewable decision on internal review**

- (1) If a person applies for an internal review of an original decision, the territorial authority may stay the operation of the original decision—
- (a) on its own initiative; or
  - (b) on the application of the applicant for the review. 5
- (2) A territorial authority must make a decision on an application for a stay within 3 working days after the date on which it receives the application.
- (3) If the territorial authority does not make a decision on an application for a stay within the time specified in **subsection (2)**, the territorial authority must be treated as having granted a stay. 10
- (4) A stay of the operation of an original decision pending a decision on an internal review continues until the reviewer makes a decision on the review.

**113E Appeal to District Court**

- (1) An applicant for a connection to a water service network who is not satisfied—
- (a) with a decision notified under **section 113C** may appeal to the District Court against the decision; or 15
  - (b) with the original decision being treated as having been confirmed under **section 113B(6)** may appeal to the District Court against that confirmation.
- (2) An appeal under this section must be made within 28 days after— 20
- (a) the applicant receives notification of the outcome of the internal review; or
  - (b) the original decision being treated as having been confirmed under **section 113B(6)**.
- (3) The court may— 25
- (a) confirm, reverse, or modify the original decision; or
  - (b) refer the matter back to the water service provider in accordance with the rules of court; or
  - (c) make any decision that the water service provider could have made.
- (4) Subject to any order of the court, every decision of the territorial authority continues in force and has effect pending the determination of an appeal against it. 30
- (5) On any appeal under this section, the court may order the territorial authority or the appellant to pay the costs incurred by the other party in respect of the appeal.

**113F Appeal to High Court** 35

- (1) A person may appeal to the High Court on a question of law only against a decision made by the District Court under **section 113E**.

- (2) An appeal must be made by giving notice of appeal no later than 20 working days after the date on which notice of the decision was communicated to the appellant, or within any further time that the High Court may allow.

**113G Appeals to Court of Appeal or Supreme Court**

- (1) A party to an appeal under **section 113F** may appeal to the Court of Appeal or the Supreme Court against any determination of the High Court on a question of law arising in that appeal, with the leave of the court appealed to. 5
- (2) The Court of Appeal or the Supreme Court hearing an appeal under this section has the same power to adjudicate on the appeal as the High Court had.
- (3) **Subsection (1)** is subject to section 75 of the Senior Courts Act 2016 (which provides that the Supreme Court must not give leave to appeal directly to it against a decision made in a court other than the Court of Appeal unless it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court). 10

*Obligations to publish water ~~Water~~ services network maps and capacity utilisation and asset details* 15

**114 Obligation to publish water services network maps**

- (1) A water service provider must—
- (a) prepare and publish a map of each of its water services networks that shows the location of each pipe and connection point in the network; and 20
- (b) update the map as soon as practicable after any changes to the location of a pipe or a connection point.
- (2) The water service provider must publish the map on a publicly accessible internet site maintained by, or on behalf of, the water service provider.

**114A Obligation to publish capacity utilisation and asset details** 25

- (1) A water service provider must, no later than 4 years after this section comes into force,—
- (a) publish all capacity utilisation and asset details known to the water service provider; and
- (b) ensure that the published information is, at all times, as up to date as practicable. 30
- (2) The water service provider must publish the information on a publicly accessible internet site maintained by, or on behalf of, the water service provider.

## Subpart 4—Accessing land to carry out water services infrastructure work

### 115 Outline of this subpart

- (1) This subpart provides for—
- (a) a water service provider entering privately owned land (including Māori land) and roads and level crossings to carry out works in relation to water services infrastructure; and 5
  - (b) when consent to the entry and works is, and is not, required; and
  - (c) when an owner of land or a road or level crossing or another person may impose conditions on the entry and the work; and 10
  - (d) related matters.
- ~~(2) In this subpart, **owner**, in relation to land or a road or level crossing, includes the occupier of the land if the owner is not the occupier.~~
- (3) A reference in this subpart to a water service provider entering, or proposing to enter, land to carry out work in relation to water services infrastructure also applies to land that— 15
- (a) is adjacent to the land where the infrastructure is located; and
  - (b) it is necessary to enter in order to carry out the work.

### **115A Interpretation**

In this subpart,— 20

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

Māori-owned land means any or all of the following:

- (a) Māori land;
- (b) a Māori reservation; 25
- (c) any land on which a marae or an urupā is situated;
- (d) a reserve that, under a Treaty settlement Act,—
  - (i) is vested in a post-settlement governance entity; or
  - (ii) is administered by a post-settlement governance entity, whether as the administering body or when performing a role in the administering body 30

owner, in relation to land,—

- (a) includes the occupier if the land is not Māori-owned land; and
- (b) if the land is Māori-owned land,—
  - (i) means the person or administering body that has lawful authority under Te Ture Whenua Maori Act 1993 or any other Act to— 35

- (A) receive a notification under **section 117**; and
- (B) consent to, or impose conditions on, any proposed entry and work under **section 118**; and
- (C) engage in all processes and other matters under this subpart that arise from an action described in **subsubparagraph (A) or (B)**; and 5
- (ii) includes the occupier for the following purposes:
- (A) being notified under **section 117** of a water service provider's intention to enter land and carry out work under **section 116(1)(b), (c), or (d)**; 10
- (B) imposing reasonable conditions under **section 118(1)(b)**;
- (C) engaging in all processes and other matters under this subpart that arise from an action described in **subsubparagraph (A) or (B)**
- road— 15
- (a) includes—
- (i) a street and any other place to which the public have access (including a State highway and a public footpath), whether as of right or not; and
- (ii) land that is vested in a local authority for the purpose of a road as shown on a deposited survey plan; and 20
- (iii) all bridges, culverts, ferries, and fords that form part of any road, street, or other place referred to in **subparagraph (i) or (ii)**; but
- (b) does not include—
- (i) a motorway within the meaning of section 2(1) of the Government Roding Powers Act 1989; or 25
- (ii) a private road within the meaning of section 315 of the Local Government Act 1974; or
- (iii) any roadway laid out by order of the Māori Land Court under sections 315 to 327 of Te Ture Whenua Maori Act 1993 or under any former Act, except where that order has been cancelled, or where the roadway has been declared under section 320 of that Act to be a road 30
- State highway has the meaning set out in section 5(1) of the Land Transport Management Act 2003. 35

*General requirements*

- 116 Power to enter land and carry out work ~~in relation to water services infrastructure on land~~**
- (1) A water service provider may enter land to carry out any of the following work that it considers necessary or desirable for the provision of water services in its service area: 5
- (a) constructing or placing water services infrastructure on, over, or under land or under a building on land:
  - (b) managing, controlling, monitoring, or eliminating any risks relating to water services infrastructure and processes: 10
  - (c) operating, inspecting, maintaining, completing, altering, renewing, or replacing any water services infrastructure and processes on, over, or under land or under a building on land:
  - (d) carrying out work in relation to an overland flow path or watercourse.
- (2) A water service provider may exercise the power specified in **subsection (1)(a)** only— 15
- (a) with the prior written consent of, and in accordance with any reasonable conditions imposed by, the owner of the land; or
  - (b) in accordance with ~~a determination~~ an internal review determination under **section 118D** or a court order under **section 120** ~~section 149~~. 20
- (3) A water service provider must exercise the power specified in **subsection (1)(b), (c), or (d)** in accordance with—
- (a) any reasonable conditions imposed by the owner of the land; or
  - (b) an internal review determination under **section 118D** or a court ~~any~~ order under **section 120** ~~made under **section 124**~~. 25
- (4) ~~A condition under **section 118** cannot limit or override any legally binding agreement (whether new or existing) between the owner of the land and the water service provider relating to water services.~~
- (5) **Subsection (1)(a)** does not apply to— 30
- (a) land owned by the Crown; or
  - (b) land held or administered under the Conservation Act 1987 or any of the Acts specified in Schedule 1 of that Act.
- (6) Despite **subsection (5)-(6)(b)**, **subsection (1)(a)** applies to land administered by a local authority under the Reserves Act 1977.
- (7) **Subsection (1)** does not apply to a road or a level crossing (see **sections 132 to 136**). 35

Compare: 2022 No 77 s 200

- 117** Notification of proposed entry and work~~Notice required before carrying out work on, over, or under land~~
- (1) Before a water service provider enters land and carries out any work specified in **section 116(1)**, it must notify the owner of the land of its intention to enter the land and carry out the work. 5
- (2) A notice under **subsection (1)** must—
- (a) be in writing; and
- (b) be given within the relevant time specified in **subsection (2A)**~~at least 30 working days before the proposed work is to start~~; and
- (c) specify the following: 10
- (i) the land where the relevant infrastructure (or, if applicable, the relevant overland flow path or watercourse) is located;
- (ii) any adjacent land that must also be entered to carry out the work;
- (iii) the location of the proposed entry;
- (iv) the date and time of the proposed entry: 15
- (v) the nature of the work to be carried out and the reasons for it;
- (vi) the length of time that an officer, employee, or agent of the provider expects to be on the land or in any building on the land; and
- (d) ask the owner to respond to the notice within 10 working days, including in relation to consent and conditions (as applicable). 20
- (2A) A water service provider must give notice in writing—
- (a) at least 30 working days before the proposed work is to start, unless **paragraph (b) or (c)** applies; or
- (b) if the proposed work is maintaining, completing, altering, renewing, or replacing existing water services infrastructure or an existing overland flow path or watercourse, at least 10 working days before the proposed work is to start; or 25
- (c) in accordance with **section 137**, for urgent work to which that section applies.
- (2B) Despite **subsection (2)(a) and (b)**, if the proposed work is operating or inspecting existing water services infrastructure or an existing overland flow path or watercourse, a water service provider must give reasonable notice by telephone or in any other manner that the provider considers appropriate. 30
- (3) If there is any change to the date or time of a proposed entry,—
- (a) the water service provider must notify the owner in writing of the change; and 35
- (b) give the owner a reasonable time before the proposed work is to start.

(3A) If the land is or includes Māori-owned land, the water service provider must also notify the following in accordance with this section:

- (a) the marae, if a marae is situated on the land:
- (b) the trustees of the principal marae of the hapū that is associated with the land if—
  - (i) an urupā, but no marae, is situated on the land; or
  - (ii) the land has been set apart as a Māori reservation.

5

~~(4) In addition, if the relevant land is or includes Māori land, the water service provider must also comply with the requirements set out in **sections 123 to 128**.~~

10

(5) In this section, **existing water services infrastructure or an existing over-land flow path or watercourse** means water services infrastructure, an over-land flow path, or a watercourse that was wholly or partly in place on, over, or under land or under a building on land immediately before this Act came into force.

15

Compare: 2022 No 77 s 201

#### **118 Owner's ~~notice notifies water service provider~~ of consent and conditions**

(1) An owner of land who receives a notice under **section 117** must, within 10 working days, give written notice to the water service provider,—

- (a) for entry and work specified in **section 116(1)(a)**,—
  - (i) giving unconditional consent; or
  - (ii) declining consent; or
  - (iii) giving consent subject to reasonable conditions; or
- (b) for entry and work specified in **section 116(1)(b), (c), or (d)**; ~~imposing any reasonable conditions the owner wishes to impose on the entry or the work.~~
  - (i) imposing any reasonable conditions the owner wishes to impose on the entry or the work; or
  - (ii) advising the water service provider that the owner is not imposing any conditions.

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(1A) **Subsection (1B)** applies if the land is Māori-owned land that is—

- (a) land on which a marae or an urupā is situated; or
- (b) set aside as a Māori reservation.

(1B) The owner's notice in relation to entry and any work specified in **section 116(1)** must—

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- (a) give unconditional consent; or
- (b) decline consent; or
- (c) give consent subject to reasonable conditions.

- (2) ~~Conditions imposed by an owner of land may include conditions as to time and manner of entry onto the relevant land.~~
- (2A) A condition imposed by an owner of land—
- (a) may include conditions as to the time and manner of entry onto the relevant land; but 5
- (b) may not—
- (i) delay the entry by more than 15 working days; or
- (ii) require monetary or other consideration; or
- (iii) otherwise defeat the ability of the water service provider to exercise effectively its powers under **section 116**; or 10
- (iv) limit or override any legally binding agreement (whether new or existing) between the owner of the land and the water service provider relating to water services.
- (3) If the owner of the land fails to comply with **subsection (1)(b)** within 15 working days after being notified of the proposed entry and work, ~~any proposed refusal of consent or conditions do not apply and~~ the water service provider may start the work. 15

Compare: 2022 No 77 s 202

### **118A Provider must conduct internal review**

- (1) This section and **sections 118B to 118D** apply if— 20
- (a) a water service provider notifies the owner of private land under **section 117** of the provider's intention to enter the land and carry out work; and
- (b) the owner of the land—
- (i) gives notice to the provider under **section 118(1)(a)(ii) or (1B)(b)** declining consent; or 25
- (ii) gives notice to the provider under **section 118(1)(a)(iii) or (b)(i) or (1B)(c)** imposing conditions that the provider considers unreasonable; or
- (iii) does not respond to the provider within 30 working days after being notified of a proposed entry to carry out work specified in **section 116(1)(a)**. 30
- (2) The provider must arrange for the conduct of an internal review in relation to the dispute.
- (3) The person (the **reviewer**) who reviews the matter on the provider's behalf— 35
- (a) must be employed or engaged by the provider for the purposes of this section; and
- (b) must be suitably qualified and experienced to perform the task; and

- (c) must not have had any involvement in the matter under review.

### **118B Internal review process**

- (1) The reviewer must review and determine the matter within 20 working days after the expiry of
- (a) the 15 working days referred to in **section 118(3)**; or 5
- (b) the 30 working days referred to in **section 118A(1)(b)(iii)**.
- (2) The reviewer may ask for further information from the water service provider and the owner of the land.
- (3) If the reviewer asks for further information, the person or body asked must provide the information within the period (of not less than 5 working days) specified by the reviewer. 10
- (4) The reviewer may, but is not required to, convene a meeting with the provider and the owner of the land.
- (5) If the reviewer decides to convene a meeting, the reviewer must give the provider and the owner of the land reasonable notice of the date, time, and place of the meeting. 15

### **118C When parties do not participate**

- (1) This section applies if a party to an internal review fails to participate in the review by—
- (a) not giving the reviewer the further information requested within the time specified in the request; or 20
- (b) not attending a meeting convened by the reviewer.
- (2) The reviewer may determine the matter under **section 118D** without the further information or the meeting (as applicable).
- (3) However, **subsection (4)** applies if— 25
- (a) the land is Māori-owned land; and
- (b) the notice given under **section 117** is for—
- (i) proposed entry and work specified in **section 116(1)** on land on which a marae or an urupā is situated; or
- (ii) proposed entry and work specified in **section 116(1)** on land that has been set apart as a Māori reservation; or 30
- (iii) proposed entry and work specified in **section 116(1)(a)** on other Māori-owned land; and
- (c) the owner of the land—
- (i) has declined consent to the entry and work; or 35
- (ii) has given consent subject to conditions that the water service provider considers unreasonable; or

- (iii) has not responded to the notice within 30 working days.
- (4) In the circumstances set out in **subsection (3)**,—
- (a) the reviewer may not determine the matter; but
- (b) the water service provider may appeal to the Māori Land Court.
- 118D Reviewer's determination** 5
- (1) A reviewer may—
- (a) confirm the position taken by the owner of the land; or
- (b) if the owner declined consent, set aside the owner's decision and replace it with a determination that the entry and work may proceed—
- (i) subject to reasonable conditions specified by the reviewer; or 10
- (ii) unconditionally; or
- (c) if the owner imposed conditions,—
- (i) vary those conditions; or
- (ii) remove those conditions; or
- (iii) substitute new conditions; or 15
- (d) if the owner did not respond to the provider's notice within 30 working days,—
- (i) determine whether the entry and work may proceed (if the owner's consent is required); and
- (ii) specify reasonable conditions in relation to the entry and work. 20
- (2) If the reviewer does not complete the review within the 20 working days specified in **section 118B(1)**, the reviewer is taken to have confirmed the position taken by the owner of the land.
- (3) The reviewer must, as soon as practicable (but not more than 5 working days) after completing the review, notify the provider and the owner of the land in writing of— 25
- (a) the reviewer's determination; and
- (b) the reasons for that determination.
- (4) This section does not apply in the circumstances set out in **section 118C(3)**.
- ~~**119 Process if consent declined for works under section 116(1)(a)**~~ 30
- (1) ~~This section applies if—~~
- (a) ~~an owner of land has received a notice under **section 117** that a water service provider proposes to carry out work specified in **section 116(1)(a)**; and~~
- (b) ~~the owner has not consented to the work within 30 working days of receiving the notice; and~~ 35

- (e) ~~the provider still proposes to carry out the work.~~
- (2) ~~The provider must—~~
- (a) ~~appoint a day for a hearing in relation to the matter; and~~
- (b) ~~give the owner reasonable notice of the day, time, and place of the hearing so as to enable the owner to prepare for and attend the hearing; and~~ 5
- (c) ~~meet with the owner for the hearing on the day appointed.~~
- (3) ~~After hearing any matters raised by the owner at the meeting, the provider may determine—~~
- (a) ~~to abandon the proposed works; or~~
- (b) ~~to proceed with the works, with or without any alterations that the provider considers appropriate.~~ 10
- (4) ~~The provider must give the owner written notification of the determination within 5 working days.~~
- (5) ~~If the owner does not attend the meeting, the provider—~~
- (a) ~~may make a determination in the owner's absence; and~~ 15
- (b) ~~must give the owner written notification of any determination within 5 working days.~~
- (6) ~~Despite **subsection (5)(a)**, if a dispute concerns Māori land, the provider—~~
- (a) ~~must not make a determination; and~~
- (b) ~~may appeal to the Māori Land Court against the refusal of consent (see **section 129**).~~ 20

Compare: 2022 No 77 s 203

## 120 Appeal against internal review determination for consent disputes

- (1) An owner of land other than Māori-owned land ~~who is aggrieved by a water service provider's determination to proceed with proposed works~~ may appeal to the District Court against the outcome of an internal review ~~the determination.~~ 25
- (2) The owner landowner ~~owner~~ must lodge the appeal with the court within 20 working days ~~28 days~~ after being notified of the reviewer's determination under **section 118D** ~~determination.~~ 30
- (3) If an appeal is lodged, the provider must not proceed with the proposed works before the court has heard and decided the matter.
- (4) On appeal, the court may, if satisfied that the requirements set out in **subsection (5)** have been met, make an order—
- (a) authorising the provider to enter the land and carry out work specified in the order; and 35
- (b) imposing any conditions that the court considers appropriate.
- (5) The requirements are that—

- (a) carrying out the work is necessary or desirable for providing the provision of water services in the provider's service area; and
- (b) the provider has taken reasonable steps to negotiate consent and agreed conditions with the owner of the land; and
- (c) in relation to the construction or placement of the water services infrastructure, no practicable—practical and comparably priced alternative exists. 5
- (6) Before making an order under **subsection (4)**, the court must have regard to the particulars of any applicable resource consent or building consent.
- 121 Process for dispute about conditions on work under section 116(1)** 10
- ~~(1) This section applies if—~~
- ~~(a) an owner of land—~~
- ~~(i) has received a notice under **section 117** that a water service provider proposes to carry out work specified in **section 116(1)**; and~~ 15
- ~~(ii) notifies the provider that the owner imposes conditions on the proposed work; and~~
- ~~(b) the provider considers any of those conditions to be unreasonable.~~
- ~~(2) If the provider is unable to resolve the matter with the landowner, it may apply to the District Court for an order authorising it to enter the land and carry out the work.~~ 20
- ~~(3) The provider must give the owner of the land at least 10 working days' notice of its intention to apply to the court.~~
- ~~(4) The court may, if satisfied that the requirements set out in **subsection (5)** have been met, make an order—~~ 25
- ~~(a) authorising the provider to enter the land and carry out the work; and~~
- ~~(b) imposing any conditions that the court considers appropriate.~~
- ~~(5) The requirements are that—~~
- ~~(a) carrying out the work is necessary or desirable for the provision of water services in the provider's service area; and~~ 30
- ~~(b) the provider has taken reasonable steps to negotiate agreed conditions with the owner of the land; and~~
- ~~(c) in relation to the construction or placement of the water services infrastructure, the provider has given adequate consideration to alternative routes.~~ 35
- ~~(6) Before making an order under **subsection (4)**, the court must have regard to the particulars of any applicable resource consent or building consent.~~
- ~~(7) Despite this section, if a dispute concerns Māori land, the provider—~~

- (a) ~~must not appeal under this section; but~~
- (b) ~~may appeal the issue of conditions to the Māori Land Court against a refusal of consent (see **section 129**).~~

~~Compare: 2022 No 77 s 204~~

## 122 Requirement to produce evidence of authority and identity 5

An officer, employee, or agent of a water service provider acting under a court order made under ~~**section 120 or 121**~~ **section 120** must produce evidence of their authority and identity on entering any land under this subpart.—

- (a) ~~on initial entry onto the relevant land; and~~
- (b) ~~after the initial entry, on request.~~ 10

Compare: 2022 No 77 206

### *Additional requirements relating to Māori land*

## ~~123~~ **Land on which marae or urupā is situated or Māori reservation**

- (1) ~~This section applies if a water service provider wishes to carry out any work described in **section 116(1)** in relation to water services infrastructure located on, over, or under land—~~ 15

- (a) ~~on which a marae or an urupā is situated; or~~
- (b) ~~that is a Māori reservation.~~

- (2) ~~The provider may enter the land and carry out the work only if,—~~
  - (a) ~~at least 30 working days before commencing the work, the provider has given notice to the owners of the land of its intention to enter the land and carry out the work; and~~ 20
  - (b) ~~for work described in **section 116(1)(a)**, the owners of the land have consented to the work being carried out.~~

- (3) ~~**Section 117(2)** applies to a notice given under **subsection (2)(a)** as if it were a notice given under that section.~~ 25

~~Compare: 2022 No 77 s 207~~

## ~~124~~ **Māori land with more than 10 owners and with marae and urupā or on reservation**

- (1) ~~This section applies if a water service provider wishes to carry out—~~ 30
  - (a) ~~work described in **section 116(1)(a)** in relation to water services infrastructure on, over, or under Māori land with more than 10 owners; or~~
  - (b) ~~work described in **section 116(1)(b), (c), or (d)** in relation to water services infrastructure on, over, or under land—~~
    - (i) ~~that is Māori land with more than 10 owners; and~~ 35
    - (ii) ~~to which **section 123(1)** applies.~~

- (2) ~~The provider may enter the land and carry out the work only if, in addition to complying with **section 117**, the provider has done one of the following at least 30 working days beforehand:~~
- (a) ~~given written notice of its intention to enter the land and carry out the work to the trustees of the principal marae of the hapū associated with the land:~~ 5
  - (b) ~~published a notice on an internet site maintained by, or on behalf of, the Māori Land Court or in the Māori Land Court Pānui (or both) relating to its intention to enter the land and carry out the work:~~
  - (c) ~~given notice to the Registrar of the Māori Land Court in accordance with section 181 of Te Ture Whenua Maori Act 1993 of its intention to enter the land and carry out the work:~~ 10
- (3) ~~**Section 117(2) and (3)** applies to a notice given under **subsection (2)** as if it were a notice given under that section.~~
- (4) ~~If consent is required to enter the land and carry out the work, decisions relating to that consent must be made in accordance with Parts 9 and 10 of Te Ture Whenua Maori Act 1993.~~ 15
- Compare: 2022 No 77 s 208*

**125 Māori land with more than 10 owners and no marae, urupā, or reservation** 20

- (1) ~~This section applies if a water service provider wishes to carry out any work described in any of **section 116(1)(b) to (d)** in relation to water services infrastructure on, over, or under land—~~
- (a) ~~that is Māori land with more than 10 owners; and~~
  - (b) ~~to which **section 123** does not apply.~~ 25
- (2) ~~The provider may enter the land and carry out the work only if, in addition to complying with **section 117**, the provider has done one of the following at least 30 working days beforehand:~~
- (a) ~~given written notice of its intention to enter the land and carry out the work to the trustees of the principal marae of the hapū associated with the land:~~ 30
  - (b) ~~published a notice on an internet site maintained by, or on behalf of, the Māori Land Court or in the Māori Land Court Pānui (or both) relating to its intention to enter the land and carry out the work:~~
  - (c) ~~served notice on the Registrar of the Māori Land Court in accordance with section 181 of Te Ture Whenua Maori Act 1993 of its intention to enter the land and carry out the work.~~ 35
- (3) ~~**Section 117(2) and (3)** applies to a notice given under **subsection (2)** as if it were a notice given under that section.~~ 40
- Compare: 2022 No 77 s 209*

- ~~126~~ Notice required before carrying out work on or under reserve vested in post-settlement governance entity**
- (1) ~~This section applies if a water service provider wishes to carry out work described in **section 116(1)** in relation to water services infrastructure on or under land that is a reserve that is —~~ 5
- (a) ~~vested in a post-settlement governance entity under a Treaty settlement Act; and~~
- (b) ~~managed by an administering body that is a local authority.~~
- (2) ~~Before entering the land commencing the work, the provider must give notice of its intention to enter the land and carry out the work to the post-settlement governance entity and the administering body.~~ 10
- (3) ~~**Section 117(2) and (3)** applies to a notice given under **subsection (2)** as if it were a notice given under that section.~~
- Compare: 2022 No 77 s 210*
- ~~127~~ Requirements for easements over certain land** 15
- (1) ~~This section applies if a water service provider is seeking to create an easement on the record of title in relation to land —~~
- (a) ~~on which a marae or an urupā is situated; or~~
- (b) ~~that is a Māori reservation; or~~
- (c) ~~that is Māori land with more than 10 owners.~~ 20
- (2) ~~Sections 315 to 326 of Te Ture Whenua Māori Act 1993 apply, with any necessary modifications, to the creation of the easement as if it were land to which Part 14 of that Act applies.~~
- Compare: 2022 No 77 s 227*
- ~~128~~ Land that may be needed for settlement of Treaty of Waitangi claims** 25
- (1) ~~This section applies if a water service provider intends to purchase any Crown-owned land that is not subject to a Treaty settlement deed for the purposes of constructing or placing water services infrastructure.~~
- (2) ~~Before purchasing the land, the provider must consult the Minister for Treaty of Waitangi Negotiations for the purpose of considering the Crown's obligation to provide redress by way of Crown-owned land for any future settlements of Treaty of Waitangi claims.~~ 30
- Compare: 2022 No 77 s 228*

*Appeals relating to Māori-owned land*

- 129 Appeal to Māori Land Court** 35
- (1) ~~This section applies in relation to proposed work —~~
- (a) ~~that is described in **section 116(1)**; and~~

- (b) ~~to which any of sections 123 to 128 apply.~~
- (1A) An owner of Māori-owned land may appeal to the Māori Land Court against the outcome of an internal review.
- (1B) In addition, this section applies to an appeal by a water service provider under section 118C(4)(b). 5
- (2) ~~A water service provider may appeal to the Māori Land Court if, in relation to land described in subsection (3),—~~
- (a) ~~consent to enter the land and carry out the proposed work has been refused; or~~
- (b) ~~there is a dispute about conditions of the entry or work.~~ 10
- (3) ~~The land is—~~
- (a) ~~land on which a marae or an urupā is situated; or~~
- (b) ~~land that is a Māori reservation; or~~
- (c) ~~Māori land with more than 10 owners.~~
- (4) An appeal must be made by giving notice of appeal— 15
- (a) not later than ~~15~~ 20 working days after the date on which the owner was notified of the reviewer’s determination under section 118D ~~notice of the landowner’s position on consent or conditions was communicated to the water service provider~~; or
- (b) within any further time that the Māori Land Court allows. 20
- (5) The Māori Land Court may confirm, vary, or set aside the reviewer’s determination ~~decision~~.

Compare: 2022 No 77 s 232

### 130 Appeal to Māori ~~Maori~~ Appellate Court

- (1) A person may appeal to the Māori ~~Maori~~ Appellate Court on a question of law 25 only in relation to a decision of the Māori ~~Maori~~ Land Court made under **section 129**.
- (2) An appeal must be made by giving notice of appeal—
- (a) not later than 20 working days after the date on which the order was made or notice of the decision was communicated to the appellant; or 30
- (b) within any further time that the Māori ~~Maori~~ Appellate Court allows.

Compare: 2022 No 77 s 233

~~Water services infrastructure work~~ Work on roads

### 131 Definitions

For the purposes of ~~sections 132 to 136~~,— 35

**level crossing** has the meaning given in section 4(1) of the Railways Act 2005

**road—****(a) includes—**

- (i) ~~a street and any other place to which the public have access (including a State highway and a public footpath), whether as of right or not; and~~ 5
- (ii) ~~land that is vested in a local authority for the purpose of a road as shown on a deposited survey plan; and~~
- (iii) ~~all bridges, culverts, ferries, and fords that form part of any road, street, or other place referred to in **subparagraph (i) or (ii)**; but~~

**(b) does not include—** 10

- (i) ~~a motorway within the meaning of the Government Roading Powers Act 1989; or~~
- (ii) ~~a private road within the meaning of section 315 of the Local Government Act 1974; or~~
- (iii) ~~any roadway laid out by order of the Maori Land Court under sections 315 to 327 of Te Ture Whenua Maori Act 1993 or under any former Act, except where that order has been cancelled, or where the roadway has been declared under section 320 of that Act to be a road~~ 15

~~**State highway** has the meaning given in section 5(1) of the Land Transport Management Act 2003.~~ 20

**132 Power to enter road and carry out work ~~in relation to water services~~  
~~infrastructure on roads~~**

- (1) A water service provider may carry out any of the following work that it considers necessary for providing ~~the provision of~~ water services: 25
- (a) constructing, placing, operating, inspecting, maintaining, altering, renewing, or replacing water services infrastructure (or an overland flow path or a watercourse) on, along, over, across, or under any road in the provider's service area:
  - (b) removing any obstruction or blockage relating to water services infrastructure (or an overland flow path or a watercourse), or clearing any flora that constitutes a risk to water services infrastructure (or to an overland flow path or a watercourse) on, along, over, across, or under any road in the provider's service area: 30
  - (c) for the purposes of **paragraphs (a) and (b)**,— 35
    - (i) working in any road (including excavating or breaking up any road):
    - (ii) altering the position of, or altering, repairing, or removing, any gas, electricity, or telecommunications infrastructure or any part

of that infrastructure on, along, over, across, or under any road in the provider's service area.

- (2) The water service provider must exercise the powers specified in **subsection (1)** in accordance with any reasonable conditions imposed by any of the following: 5
- (a) the road owner;
  - (b) any other person who has jurisdiction over the road;
  - (c) a utility operator whose infrastructure (including pipes and lines) is likely to be affected by the work.
- (3) In this section and **section 133, utility operator** has the ~~same~~ meaning set out as in section 4 of the Utilities Access Act 2010. 10
- Compare: 2022 No 77 s 211

### 133 Notice requirement

- (1) Before working on any road, a water service provider must give notice of the intention to carry out the work to— 15
- (a) the local authority or other person who has jurisdiction over the road; and
  - (b) any utility operator whose infrastructure (including pipes and lines) is likely to be affected by the work.
- (2) Every notice must specify the location of the proposed work, the nature of the work, and the reasons for it. 20
- Compare: 2001 No 103 s 136

### 134 Water service provider to be notified of conditions

A person or body that receives a notice under **section 133** must, within 15 working days, notify the water service provider in writing of any conditions imposed under **section 132(2)**. 25

Compare: 2001 No 103 s 137

### 135 Failure to notify conditions

If the person or body fails to notify the water service provider of conditions in accordance with **section 134**, ~~those conditions are not imposed and~~ the water service provider may commence work. 30

Compare: 2001 No 103 s 138

~~Water services infrastructure work~~ Work on level crossings

### 136 Power to enter level crossing and carry out work ~~Level crossings~~

- (1) A water service provider may enter a level crossing in its service area for any of the following purposes: 35

- (a) constructing, placing, operating, inspecting, maintaining, altering, renewing, or replacing water services infrastructure (or an overland flow path or a watercourse) on, along, over, across, or under a level crossing:
- (b) removing any obstruction or blockage relating to water services infrastructure (or an overland flow path or a watercourse), or clearing any flora that constitutes a risk to water services infrastructure (or to an overland flow path or a watercourse) on, along, over, across, or under a level crossing: 5
- (c) for the purposes of **paragraphs (a) and (b)**,—
- (i) working in a level crossing (including excavating or breaking up a level crossing): 10
- (ii) altering the position of, or altering, repairing, or removing, any gas, electricity, or telecommunications infrastructure or any part of that infrastructure on, along, over, across, or under a level crossing. 15
- (2) The provider must take all reasonable steps to negotiate consent to the proposed entry and work with the level crossing owner.
- (3) In addition, the provider must carry out the proposed work in accordance with any reasonable conditions imposed by—
- (a) the level crossing owner; and 20
- (b) any other person who has jurisdiction over the level crossing; and
- (c) utility operators whose infrastructure (including pipes and lines) is likely to be affected by the work.
- (4) The provider, if unable to negotiate consent, may apply to the District Court for an order authorising the provider to enter the level crossing and carry out the work. 25
- (5) The provider must give the owner of the level crossing at least 15 working days' notice of its intention to apply to the court.
- (6) The court may, if satisfied that the requirements set out in **subsection (7)** have been met, make an order— 30
- (a) authorising the provider to enter the level crossing and carry out the work specified in the order; and
- (b) imposing any conditions that the court considers appropriate, including conditions about—
- (i) how and when entry may be made; and 35
- (ii) entry being with or without the assistants, aircraft, boats, vehicles, appliances, machinery, and equipment that are reasonably necessary for the work.
- (7) The requirements are that—

- (a) carrying out the work is necessary or desirable for providing the provision of water services in the provider's service area; and
- (aa) the work will be carried out in a manner that ensures the safety of all rail personnel and members of the public on the level crossing; and
- (b) the provider has taken all reasonable steps to negotiate an agreement for entry onto the level crossing; and 5
- (c) in relation to the construction or placement of the water services infrastructure, no practical alternative route exists.
- (8) In **subsection (7)**, rail personnel has the meaning set out in section 4(1) of the Railways Act 2005. 10
- Compare: Compare 2022 No 77 s 214

*Urgent work ~~permitted~~*

**137 Urgent work permitted Urgency**

- (1) This section applies if—
- (a) an emergency has been declared under the Water Services Act 2021, the Civil Defence Emergency Management Act 2002, the Hazardous Substances and New Organisms Act 1996, or the Biosecurity Act 1993 and immediate action is necessary to respond to the emergency; or 15
- (b) any officer, employee, or agent of a water service provider believes, on reasonable grounds, that a specified serious risk exists. 20
- (2) An officer, employee, or agent of a water service provider—
- (a) may take immediate action to carry out any work described in—
- (i) **section 116(1)(a)** (including work described in **section 123(1)(a)**) without complying with the requirement to obtain consent before entering the land; and 25
- (ii) **section 116(1)(b) or (c) or 123(1)(a)** without complying with the requirement to give notice before entering the land; and
- (b) must give the information required by **section 117(2)(c) or 133(2)** as soon as practicable after commencing the work, including by providing information about the action taken and the reasons for taking the action. 30
- (3) An officer, employee, or agent of the water service provider, while exercising powers under this section in respect of the land, road, or level crossing must—
- (a) carry evidence of their authority and identity; and
- (b) produce the evidence on request.
- (4) In this section, **specified serious risk** has the meaning set out in **section 344.** 35
- Compare: 2001 No 103 s 139

*Appeal about conditions by water service provider***138 Appeal about conditions relating to work on roads and level crossings**

- (1) A water service provider may appeal to the District Court against all or any of the conditions imposed under **section 132(2) or 136(3)**.
- (2) The provider must lodge the appeal— 5
  - (a) no later than 45 working days after the date of notification of the conditions; or
  - (b) within any further time that the court allows.
- (3) In its determination of any appeal, the court may confirm, modify, or cancel any or all of the conditions. 10
- (4) The decision of the court in the determination of an appeal under this section is final.

Compare: 2001 No 103 s 141

*Provider to notify landowners of court orders***139 Service of order** 15

Before taking any actions authorised by a court order made under this subpart, a water service provider must send the owner of the land to which the order relates a copy of the order.

Compare: 2022 No 77 s 205

*Compensation payable by water service provider* 20**140 Compensation**

- (1) The exercise of a power set out in **section 116(1)** applies subject to Part 5 of the Public Works Act 1981 as to compensation for injurious affection to land.
- (2) The amount of the compensation may be— 25
  - (a) agreed between the water service provider and the person concerned; or
  - (b) failing agreement, determined in the manner set out in the Public Works Act 1981.

Compare: 2022 No 77 s 218

*Protection of water services infrastructure***141 Protection of water services infrastructure** 30

- (1) ~~Any existing water services infrastructure that is lawfully fixed to or installed over, on, or under any land that is not owned by the person that owns the infrastructure continues to be fixed or installed until the owner of the infrastructure otherwise decides, and no person other than the owner of the infrastructure has~~

~~any interest in the infrastructure by reason only of having an interest in the land.~~

(1) This section applies to any existing water services infrastructure lawfully placed on, over, or under land, or under a building on land, that is not owned by the person who owns the infrastructure. 5

(2) The infrastructure must remain in place until the owner of the infrastructure decides otherwise.

(3) No other person has any interest in the infrastructure by reason only of having an interest in the land.

Compare: ~~1992~~ ~~1999~~ No 122 s 22

10

#### **142 Owners of land not responsible for maintenance**

(1) An owner of land on which any existing water services infrastructure owned by a water service provider is placed ~~is situated~~ is not required by this Act to maintain the infrastructure, or to maintain tracks for the purpose of providing the ~~owner of the water services infrastructure~~ water service provider with access to the infrastructure. 15

(2) This section does not limit or override any new or existing legally binding agreement that provides for an owner of the land to be responsible for any maintenance.

Compare: ~~1992~~ ~~1999~~ No 122 s 22A

20

#### *Crown land*

#### **142A Purchase of Crown land**

(1) This section applies if a water service provider intends to purchase any Crown-owned land that is not subject to a Treaty settlement deed for the purposes of constructing or placing water services infrastructure. 25

(2) Before any purchase may proceed,—

(a) the provider must notify the Minister or agency responsible for administering the land of the provider's intention; and

(b) that Minister or agency must consult the Minister for Treaty of Waitangi Negotiations for the purpose of considering the Crown's obligation to provide redress by way of Crown-owned land for any future settlements of Treaty of Waitangi claims. 30

Compare: 2022 No 77 s 228

### ~~Subpart 5 — Drinking water catchment plans~~

#### ~~143 Water service provider must make drinking water catchment plan~~

- (1) ~~A territorial authority must issue a drinking water catchment plan for each of its drinking water catchment areas no later than 2 years after the date on which this section comes into force.~~ 5
- (2) ~~A territorial authority may delegate preparation of the drinking water catchment plan to a water organisation that provides water services in relation to a water supply network in the territorial authority's district.~~
- (3) ~~A drinking water catchment plan must specify —~~
- (a) ~~the controlled drinking water catchment area (or areas) to which the plan applies; and~~ 10
  - (b) ~~the activities that result in risks to the drinking water sourced from the catchment; and~~
  - (c) ~~the nature of the risks to the quality of drinking water sourced from the catchment.~~ 15
- (4) ~~The drinking water catchment area to which a plan applies must be —~~
- (a) ~~either —~~
    - (i) ~~an area of land that surrounds a source of drinking water; or~~
    - (ii) ~~a ground water catchment from which drinking water is sourced; and~~ 20  - (b) ~~land that the territorial authority or a water service provider —~~
    - (i) ~~owns; or~~
    - (ii) ~~has long term control over; or~~
    - (iii) ~~has agreed with the land owner will be included in the plan.~~
- (5) ~~A drinking water catchment plan may, —~~ 25
- (a) ~~if issued by a territorial authority, include proposals that the territorial authority make a water services bylaw; or~~
  - (b) ~~if issued by a water organisation, include recommendations that the territorial authority make a water services bylaw.~~
- (6) ~~A proposal or recommendation under **subsection (5)** may include a proposal or recommendation that the territorial authority make a water services bylaw that restricts, imposes requirements on, or prohibits 1 or more of the following in the controlled drinking water catchment area to which the plan applies:~~ 30
- (a) ~~access to the controlled drinking water catchment area;~~
  - (b) ~~activities that may be undertaken in the controlled drinking water catchment area.~~ 35

- (e) ~~the use or contamination of water in the controlled drinking water catchment area.~~

#### **144 Consultation on proposed drinking water catchment plan**

- (1) ~~When preparing a drinking water catchment plan, or an amendment or a revocation of a drinking water catchment plan, the territorial authority must—~~ 5
- (a) ~~prepare—~~
- (i) ~~a statement of proposal; and~~
- (ii) ~~if the territorial authority considers on reasonable grounds that it is necessary to enable public understanding of the proposal, a summary of the information contained in the statement of proposal; and~~ 10
- (b) ~~ensure that the following are publicly available:~~
- (i) ~~the statement of proposal; and~~
- (ii) ~~a description of how the territorial authority will give persons interested in the proposal an opportunity to present their views to the territorial authority; and~~ 15
- (iii) ~~a statement of the period within which views on the proposal may be presented to the territorial authority (the period must not end earlier than 1 month after the date on which the territorial authority issues the statement); and~~ 20
- (c) ~~make the summary of the information contained in the statement of proposal prepared in accordance with **paragraph (a)(i)** (or the statement of proposal, if a summary is not prepared) as widely available as is reasonably practicable as a basis for consultation; and~~
- (d) ~~provide an opportunity for persons to present their views to the territorial authority; and~~ 25
- (e) ~~ensure that any person who wishes to present their views to the territorial authority—~~
- (i) ~~is given a reasonable opportunity to do so; and~~
- (ii) ~~is informed about how and when they may do so.~~ 30
- (2) ~~A summary of information prepared for the purposes of **subsection (1)(a)(ii)** must comply with **section 145.**~~
- (3) ~~For the purposes of, but without limiting, **subsection (1)(d)**, a territorial authority may allow any person to present their views to the territorial authority by way of audio link or audiovisual link.~~ 35
- (4) ~~This section does not prevent a territorial authority from requesting or considering, before making a decision, comment or advice from any person in respect of the proposal or any views on the proposal, or both.~~

- (5) ~~Consultation on a proposal under this section must be undertaken in a manner that gives effect to section 82 of the LGA 2002 (principles of consultation) but each reference in that section to a local authority must be read as a reference to—~~
- (a) ~~the territorial authority; or~~ 5
  - (b) ~~if the territorial authority delegates preparation of the drinking water catchment plan to a water organisation under **section 143(2)**, the water organisation.~~
- Compare: 2002 No 84 s 82*
- 145 Summary of information** 10
- (1) ~~A summary of the information contained in a statement of proposal under **section 144** must—~~
- (a) ~~be a fair representation of the major matters in the statement of proposal; and~~
  - (b) ~~be in a form determined by the territorial authority; and~~ 15
  - (c) ~~indicate where the statement of proposal is available; and~~
  - (d) ~~state the period within which persons interested in the proposal may present their views to the territorial authority.~~
- (2) ~~However, if the territorial authority has delegated preparation of the drinking water catchment plan to a water service provider, the references to the territorial authority in **subsection (1)(b) and (d)** must be read as references to the water service provider.~~ 20
- 146 Bylaws proposed or recommended in drinking water catchment plan**
- (1) ~~If a drinking water catchment plan includes a proposal or recommendation for the territorial authority to make a water services bylaw, the territorial authority must—~~ 25
- (a) ~~consider the proposal or the recommendation; and~~
  - (b) ~~make the bylaw if satisfied that the bylaw would be consistent with this Act and other enactments related to making bylaws.~~
- (2) ~~Before deciding whether to make a water services bylaw that is proposed or recommended in a drinking water catchment plan, a territorial authority must consult in accordance with the process set out in **sections 144 and 145** as if the references in those sections to a drinking water catchment plan were references to a water services bylaw.~~ 30
- (3) ~~However, a territorial authority is not required to consult under **subsection (2)** if it is satisfied that the consultation on the drinking water catchment plan was sufficient.~~ 35

**147 ~~Content of proposed or recommended water services bylaw~~**

- (1) ~~A water services bylaw made as a result of a proposal or recommendation under **section 143(5)** may authorise a water service provider to grant and administer permits (including charging fees for permits) for activities that may be undertaken in the controlled drinking water catchment area.~~ 5
- (2) ~~If the bylaw authorises a water service provider to charge a fee, section 150(1) to (4) of the LGA 2002 applies with any necessary modifications.~~

**148 ~~Review of drinking water catchment plan~~**

- (1) ~~A territorial authority must review each drinking water catchment plan that is made under this Act and that relates to the territorial authority's district.~~ 10
- (2) ~~The territorial authority must complete a review under **subsection (1)**—~~
- (a) ~~no later than the date that is 10 years after the date on which this section comes into force; and~~
- (b) ~~no later than the date that is 10 years after the date on which the plan was last reviewed under **paragraph (a)**.~~ 15
- (3) ~~After reviewing a drinking water catchment plan, the territorial authority must determine whether the plan—~~
- (a) ~~should be revoked and replaced, or amended, in which case it must revoke and replace, or amend, the plan under this Part; or~~
- (b) ~~should continue without amendment.~~ 20
- (4) ~~For the purposes of revoking and replacing, or amending, a plan under **subsection (3)(a)**, the territorial authority must consult on the proposal in accordance with the process set out in **section 144** with all necessary modifications.~~
- (5) ~~Despite **subsection (4)**, a territorial authority may, by resolution publicly notified, make minor changes to, or correct errors in, a plan, but only if the changes or corrections do not affect—~~ 25
- (a) ~~an existing right, interest, title, immunity, or duty of any person to whom the plan applies; or~~
- (b) ~~an existing status or capacity of any person to whom the plan applies.~~
- (6) ~~If a territorial authority has established a water organisation under a joint arrangement with 1 or more other territorial authorities, the territorial authorities must jointly complete the review under this section of the plan under which the water organisation operates.~~ 30

**Subpart 6—Trade waste discharges****149 Interpretation** 35

In this subpart, unless the context otherwise requires,—

**trade waste discharge**—

- (a) means any waste that is—
- (i) discharged in the course of an industrial, commercial, or trade process or operation, or a related process or operation; and
  - (ii) discharged into a wastewater network; but
- (b) does not include any class of waste or material that has been specified not to be trade waste discharge by a trade waste discharge plan made under **section 150**

5

**trade waste bylaw** means a water services bylaw made under **section 347** that relates to trade waste discharge

10

**trade waste permit** means a permit issued by a water service provider in accordance with a water services bylaw made under **section 155**

**trade waste discharge plan** means a plan made by a water service provider under **section 150**

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

15

- (a) an industrial or a trade purpose; or
- (b) storing, transferring, treating, or discharging trade waste.

*Trade waste discharge plans***150 Territorial authority ~~Water service provider~~ must make trade waste discharge plan** 20

- (1) A territorial authority must prepare and issue a trade waste discharge plan no later than 2 years after the date on which this section comes into force.
- (2) A territorial authority may delegate preparing and issuing ~~preparation of the~~ trade waste discharge plan to a water organisation that provides wastewater ~~water services in relation to a wastewater network~~ in the territorial authority's district. 25
- (3) A trade waste discharge plan must set out the approach that the territorial authority and its water organisation will ~~is to~~ take to regulate—
- (a) trade waste in its district; and 30
  - (b) the discharge of trade waste into wastewater networks in its district.
- (4) The trade waste discharge plan may,—
- (a) if issued by a territorial authority, include proposals that the territorial authority make a trade waste bylaw; or
  - (b) if issued by a water organisation, include recommendations that the territorial authority make a trade waste bylaw. 35
- (5) The trade waste discharge plan must specify—

- (a) the types of or specific premises to which ~~the a-~~trade waste discharge plan applies; and
- (b) any requirements or limits in relation to transporting trade waste; and
- (ba) any proposed or recommended trade waste bylaws that are necessary to implement the plan; and 5
- (c) the circumstances in which the water service provider will impose any fees or charges in relation to trade waste, including when a penalty will be imposed for not complying with the trade waste discharge plan or a trade waste permit.
- (6) The trade waste discharge plan may— 10
- (a) include conditions that the water service provider may impose on the discharge of trade waste into the wastewater network:
- (b) include different requirements or provisions for different categories of trade waste premises:
- (c) apply to 1 or more wastewater networks: 15
- (d) specify any class of waste or material that is not to be trade waste for the purposes of this Act.
- ~~(7) Before issuing a trade waste plan, the water service provider must send a copy of the proposed plan to the Water Services Authority for comment.~~
- 151 Territorial authority must consult on proposed trade waste discharge plan** 20
- (1) When preparing a trade waste discharge plan, or preparing an amendment or a revocation of a trade waste discharge plan, the territorial authority must consult in accordance with the process set out in **section 347(2C) sections 444 and 445**—as if the references in that subpart those sections to a bylaw drinking water catchment plan were references to a trade waste discharge plan. 25
- (2) Consultation on a trade waste discharge plan must also include any consultation required under section 153 on a proposed or recommended trade waste bylaw.
- 152 Bylaws proposed or recommended in trade waste discharge plan**
- (1) If a trade waste discharge plan includes a proposal or a recommendation for the territorial authority to make a trade waste bylaw, the territorial authority must— 30
- (a) consider the proposal or the recommendation; and
- (b) make the trade waste bylaw if satisfied that the bylaw would be consistent with this Act and other enactments related to making bylaws. 35
- (1A) A trade waste bylaw under subsection (1) is made under section 347.
- (2) A proposal or recommendation may be for a trade waste bylaw that specifies 1 or more of the following matters:

- (a) the activities that may be performed by a person who holds a trade waste permit:
- (b) the activities that a person must not perform without a trade waste permit:
- (c) the activities that will be subject to restrictions under a trade waste permit: 5
- (d) activities that are prohibited (~~and~~ for which a trade waste permit will not be issued):
- (e) the territorial authority's intended approach—
  - (i) to issuing trade waste permits over a 5-year period, including the approach to classes of trade waste, trade waste premises, and trade waste carriers: 10
  - (ii) to determining the requirements, conditions, and limits that are to apply to different classes of trade waste under trade waste permits:
  - (iii) to determining the qualification, training, and supervision requirements that are to apply to persons who are granted trade waste permits: 15
  - (iv) to determining the considerations that are to apply when the territorial authority sets fees or charges in relation to trade waste permits: 20
- (f) that ~~an~~ the owner or operator of trade waste premises who wishes to discharge trade waste into a wastewater network must—
  - (i) apply for a trade waste permit to discharge the trade waste; and
  - (ii) pay a fee with the application:
- (fa) requirements for a trade waste permit to be reviewed, varied, revoked, or transferred: 25
- (g) the process by which the territorial authority will issue trade waste permits:-
- (h) the role of a water service provider in administering or enforcing the bylaw. 30

### 153 Territorial authority must consult on proposed or recommended trade waste bylaw

- (1) Before deciding whether to make a trade waste bylaw under section 347 that is proposed or recommended in a trade waste discharge plan, a territorial authority must consult in accordance with the process set out in subpart 1 of Part 6 sections 144 and 145 as if the references in those sections to a ~~drinking water catchment plan~~ were references to a trade waste bylaw. 35
- (2) ~~However, a territorial authority is not required to consult under subsection (1) if it is satisfied that the consultation on the trade waste plan was sufficient.~~

- (3) The consultation on a trade waste bylaw that is proposed or recommended in a trade waste discharge plan must be included with the consultation required under **section 151(1)** on the plan.

**154 Review of trade waste discharge plan and trade waste bylaws**

- (1) A territorial authority must review ~~each trade waste plan that is made under this Act and that relates to the territorial authority's district.~~ 5
- (a) each trade waste discharge plan that is made under this Act and that relates to the territorial authority's district; and
- (b) each trade waste bylaw that is made following a recommendation or proposal in a trade waste discharge plan. 10
- (2) The territorial authority must complete a review under **subsection (1)**—
- (a) no later than ~~the date that is 10 years after the date on which it makes the plan or bylaw this section comes into force;~~ and
- (b) no later than ~~the date that is 10 years after the date on which the plan or bylaw was last reviewed under **paragraph (a)**.~~ 15
- (2A) The territorial authority must review the trade waste discharge plan or the trade waste bylaw in accordance with **section 352(1A) to (5)**, but, in the case of reviewing a trade waste discharge plan, each reference to a bylaw must be read as a reference to the plan.
- ~~(3) After reviewing a trade waste plan, the territorial authority must determine whether the plan—~~ 20
- (a) ~~should be revoked and replaced, or amended, in which case it must revoke and replace, or amend, the plan under this Part; or~~
- (b) ~~should continue without amendment.~~
- ~~(4) For the purposes of revoking and replacing, or amending, a plan under **subsection (3)(a)**, the territorial authority must consult on the proposal in accordance with the process set out in **section 144** with all necessary modifications.~~ 25
- ~~(5) Despite **subsection (4)**, a territorial authority may, by resolution publicly notified, make minor changes to, or correct errors in, a plan, but only if the changes or corrections do not affect—~~ 30
- (a) ~~an existing right, interest, title, immunity, or duty of any person to whom the plan applies; or~~
- (b) ~~an existing status or capacity of any person to whom the plan applies.~~
- ~~(6) If a territorial authority has established a water organisation under a joint arrangement with 1 or more other territorial authorities, the territorial authorities must jointly complete the review of the plan under which the water organisation operates.~~ 35

*Trade waste permits***155 Bylaw may authorise making trade waste permits**

- (1) A trade waste bylaw made under **section 347(1)(b)** may authorise the territorial authority (or a water service provider that provides wastewater services ~~in relation to waste water~~ in the territorial authority's district) to grant and administer trade waste permits (including charging fees for permits). 5
- (2) A trade waste bylaw may authorise the territorial authority or the water service provider to specify any requirements, conditions, and limits in a trade waste permit that the territorial authority or the water service provider considers appropriate for a ~~the~~ person to comply with in specified circumstances, including (without limitation) 1 or more of the following: 10
- (a) requirements relating to the storage, handling, treatment, or discharge of trade waste:
  - (b) notification requirements (for example, notification requirements relating to unintended or accidental discharge of trade waste, whether into a wastewater network, a stormwater network, or the environment): 15
  - (c) volumetric requirements, conditions, or limits:
  - (d) contaminant requirements, conditions, or limits:
  - (e) treatment requirements or conditions:
  - (f) measurement or monitoring requirements: 20
  - (g) laboratory testing requirements:
  - (h) qualification, training, or supervision requirements:
  - (i) requirements relating to unique identifiers (for example, a code that enables an entity to identify particular trade waste premises or a vehicle used to transport trade waste): 25
  - (j) record-keeping, audit, and inspection requirements:
  - (k) a requirement to pay a fee or a charge, including a penalty fee that may be imposed if a permit holder does not comply with the terms of their permit.
- (3) A trade waste permit must not be inconsistent with ~~give effect to~~ any relevant wastewater environmental performance standard ~~prescribed in regulations~~ made under section 138 of the Water Services Act 2021. 30
- (4) A trade waste permit may only authorise trade waste to be discharged into a ~~the~~ wastewater network— 35
- (a) from trade waste premises specified in the permit; or
  - (b) by a person, specified in the permit, that transports trade waste.

- (5) A trade waste permit may specify requirements, conditions, and limits that the permit holder must satisfy before discharging trade waste into a wastewater network or transporting trade waste.
- (6) However, a trade waste permit may specify requirements, ~~and conditions,~~ and limits only if— 5
- (a) they are consistent with this Act and the trade waste discharge plan; and
  - (b) they are necessary to—
    - (i) protect the wastewater network; or
    - (ii) enable a water service provider in the territorial authority’s district to meet its reporting obligations under **subpart 3 of Part 4**. 10
- (7) A trade waste bylaw may authorise permits that specify different requirements and conditions for different types of trade waste.
- ~~(8) It is an offence for a person to discharge trade waste into a waste water network—~~
- ~~(a) without holding a trade waste permit that authorises the discharge; or~~ 15
  - ~~(b) contrary to the terms of a trade waste permit.~~

*Internal review of decision declining ~~relating to~~ trade waste permit*

**156 Internal review of decision to decline trade waste permit**

- (1) A person whose application to a territorial authority for a trade waste permit is declined (~~the original decision~~) may apply to the territorial authority for an internal review of that the original decision (the original decision). 20
- (2) A person who applies ~~decides to apply~~ for an internal review must do so ~~make the application~~—
- (a) no later than—
    - (i) 20 working days after the day on which the original decision first 25 came to the person’s notice; or
    - (ii) any later date that the territorial authority allows; and
  - (b) in the manner and form required by the territorial authority.

**157 Decision of territorial authority**

- (1) A territorial authority that receives an application for internal review under **section 156** must review the original decision and make a new decision— 30
- (a) as soon as practicable; and
  - (b) in any case, within 20 working days after receiving the application for internal review.
- (2) The chief executive of the territorial authority must appoint, to undertake the 35 internal review, a person who was not involved in making the original decision.

- (3) The person appointed to undertake the review (the **appointed person**) may recommend that the territorial authority confirm, vary, set aside, or replace all or part of the original decision.
- (4) The appointed person may seek further information from the applicant, and, if they do,— 5
- (a) the applicant must provide the information to the appointed person within the period (not less than 7 working days) specified in the request for information; and
- (b) the period specified in **subsection (1)(b)** ceases to run until the applicant provides the information. 10
- (5) If the applicant does not provide the further information to the appointed person within the required time,—
- (a) the appointed person may make a recommendation to the territorial authority on the basis of the information the appointed person holds; and
- (b) the territorial authority may make a decision on the basis of the recommendation. 15
- (6) If the original decision is not varied, set aside, or replaced within the period specified in **subsection (1)(b)**, the original decision must ~~is to~~ be treated as having been confirmed by the territorial authority.
- ~~(7) If a territorial authority has delegated the administration of the trade waste bylaw to a water service provider, each reference to a territorial authority in **section 156** and this section must be read as a reference to the water service provider.~~ 20

### 158 Notice of decision on internal review

As soon as practicable after the territorial authority makes a decision in accordance with **section 157**, the chief executive of the territorial authority must notify the applicant in writing of— 25

- (a) the decision on the internal review; and
- (b) the reasons for the decision.

### 159 Stay of reviewable decision on internal review 30

- (1) If a person applies for an internal review of an original decision, the territorial authority may stay the operation of the original decision—
- (a) on its own initiative; or
- (b) on the application of the applicant for the review.
- (2) A territorial authority must make a decision on an application for a stay within 35  
3 working days after the date on which it receives the application.

- (3) If the territorial authority ~~does has~~ not ~~make made~~ a decision on an application for a stay within the time specified in **subsection (2)**, the territorial authority ~~must is to~~ be treated as having granted ~~made a decision to grant~~ a stay.
- (4) A stay of the operation of an original decision pending a decision on an internal review continues until the reviewer makes a decision on the review. 5

### 160 Appeal to District Court

- (1) An applicant for a trade waste permit who is not satisfied ~~with a decision notified under **section 158**~~ may appeal to the District Court against the ~~decision~~.
- (a) with a decision notified under **section 158** may appeal to the District Court against the decision: 10
- (b) with the original decision being treated as having been confirmed under **section 157(6)** may appeal to the District Court against that confirmation.
- (2) An appeal under this section must be made within 28 days after ~~the applicant receives notification of the outcome of the internal review:~~ 15
- (a) the applicant receives notification of the outcome of the internal review;  
or
- (b) the original decision being treated as having been confirmed under **section 157(6)**. 20
- (3) The court may—
- (a) confirm, reverse, or modify the original ~~decision of the internal review;~~  
or
- (b) refer the matter back to the water service provider in accordance with the rules of court; or 25
- (c) make ~~give~~ any decision that the water service provider could have made ~~given~~.
- (4) Subject to any order of the court, every decision of the water service provider continues in force and has effect pending the determination of an appeal against it. 30
- (5) On any appeal under this section, the court may order the water service provider or the appellant to pay the costs incurred by the other party in respect of the appeal.

### 161 Appeal to High Court

- (1) A person may appeal to the High Court on a question of law only against a decision made by the District Court under **section 160**. 35
- (2) An appeal must be made by giving notice of appeal no later than 20 working days after the date on which notice of the decision was communicated to the appellant, or within any further time that the High Court may allow.

**162 Appeals to Court of Appeal or Supreme Court**

- (1) A party to an appeal under **section 161** may appeal to the Court of Appeal or the Supreme Court against any determination of the High Court on a question of law arising in that appeal, with the leave of the court appealed to.
- (2) The Court of Appeal or the Supreme Court hearing an appeal under this section has the same power to adjudicate on the appeal as the High Court had. 5
- (3) **Subsection (1)** is subject to section 75 of the Senior Courts Act 2016 (which provides that the Supreme Court must not give leave to appeal directly to it against a decision made in a court other than the Court of Appeal unless it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court). 10

**163 Delegation of trade waste bylaws**

If a territorial authority has delegated the administration of trade waste bylaws in the territorial authority's district to a water service provider, each reference to a territorial authority in **sections 156 to 159** must be read as a reference to the water service provider. 15

## Subpart 7—Management of stormwater networks

**164 Application of this subpart**

- (1) This subpart imposes obligations on a water service provider who has responsibility for managing the ~~management of a~~ stormwater network in its service area. 20
- (2) That responsibility extends to any of the following in the provider's service area: ~~overland flow paths and watercourses that are a part of network, including those that cross over or beneath private land.~~
- (a) stormwater service zones: 25
- (b) overland flow paths and watercourses that are a part of the network, including those that cross over or beneath private land.

**164A Meaning of critical infrastructure**

In this subpart, **critical infrastructure**—

- (a) means stormwater infrastructure and processes whose failure would prevent or seriously impair the conveyance of stormwater in a stormwater network; and 30
- (b) includes—
- (i) infrastructure described in **paragraph (a)** that conveys stormwater to, or receives stormwater from, an overland flow path or a watercourse that crosses over or beneath private land; and 35

- (ii) infrastructure described in **paragraph (a)** (including infrastructure described in **subparagraph (i)**) that is privately owned and is part of the conveyance of stormwater in a stormwater network.

*Stormwater network risk ~~Risk~~ management plans*

- 165 Stormwater network risk management plan** 5
- (1) A water service provider that is responsible for managing ~~the management of~~ a stormwater network in its service area must—
- (a) develop a stormwater network risk management plan for the provider’s service area in accordance with **sections 167 and 168**; and
- (b) adopt the plan within ~~2~~3 years after the commencement of this section; 10  
and
- (c) implement the plan in accordance with its terms.
- (2) A provider that is responsible for managing ~~the management of~~ more than 1 stormwater network may develop, adopt, and implement—
- (a) a separate ~~risk management~~ plan for each network; or 15
- (b) a combined plan for some or all networks.
- 166 More than 1 responsible water service provider**
- (1) This section applies if ~~there are~~ more than 1 water service provider is responsible for managing a ~~the management of the~~ stormwater network, with each being responsible for managing ~~the management of~~ a different aspect of the network (for example, where a territorial authority establishes a water organisation to manage a stormwater network but ~~and~~ retains responsibility for managing ~~management of~~ overland flow paths and watercourses that are a part of the stormwater network). 20
- (2) Those providers must work collaboratively to prepare— 25
- (a) separate compatible stormwater network risk management plans; or
- (b) a joint stormwater network risk management plan that they will implement collaboratively.
- (3) ~~A joint risk management plan may be prepared only if all providers responsible for the management of the network participate.~~ 30
- (4) ~~A reference in this subpart to a risk management plan includes a reference to—~~
- (a) ~~a separate plan for an aspect of the stormwater network; and~~
- (b) ~~a joint plan prepared by more than 1 provider.~~
- 167 Content of stormwater network risk management plan** 35
- (1) A stormwater network risk management plan must—

- (a) contain a map of the stormwater network in the water service provider's service area; and
- (b) identify all critical infrastructure in the service area for the purposes of **paragraphs (c), (d), (e), and (g)**; and
- (c) identify all hazards that could affect the operation of critical infrastructure in the stormwater network; and 5
- (d) in relation to each hazard identified under **paragraph (c)**, assess any risks of adverse impact on the network (that is, the infrastructure and its operation); and
- (e) describe how the risks assessed under **paragraph (d)** are to be managed; and 10
- (f) identify all overland flow paths and watercourses in the service area that—
- (i) receive stormwater from, or take stormwater to, other infrastructure in the network; and 15
- (ii) cross over or beneath private land; and
- (g) specify any stormwater network bylaws that must be complied with—
- (i) when managing in the management of risks under **paragraph (e)**; and
- (ii) when managing in the management of the capacity of overland flow paths and watercourses identified under **paragraph (f)** to receive stormwater from, or take stormwater to, other infrastructure in the network. 20
- (1A) In addition, a stormwater network risk management plan—
- (a) must include any stormwater environmental performance standards made under section 139A of the Water Services Act 2021 and how the water service provider will meet those standards; and 25
- (b) may refer to any relevant management plans prepared by a territorial authority or a water service provider under the Resource Management Act 1991. 30
- (2) In this section,—
- critical infrastructure—**
- (a) ~~means stormwater infrastructure whose failure will prevent or seriously impair the conveyance of stormwater in a network; and~~
- (b) ~~includes infrastructure of that kind that conveys stormwater to, or receives stormwater from, an overland flow path or a watercourse that crosses over or beneath private land~~ 35

**hazard**, in relation to operating ~~the operation of~~ critical infrastructure, means—

- (a) existing hazards; and
- (b) emerging hazards; and
- (c) potential future hazards

**manage**, in relation to a risk assessed in a stormwater network ~~infrastructure~~ risk management plan, means—

- (a) to take action—
  - (i) to eliminate the risk, ~~if practicable~~; or
  - (ii) if elimination is not practicable, to minimise the risk so far as practicable; and
- (b) to monitor the effectiveness of those actions.

#### **~~168~~ Preparation and publication of plan**

- ~~(1) The water service provider must—~~
  - ~~(a) give the Water Services Authority a draft of its proposed stormwater network risk management plan within a time frame notified in the *Gazette* by the Water Services Authority; and~~
  - ~~(b) develop a final plan that gives effect to any comments made by the Water Services Authority on the draft plan; and~~
  - ~~(c) give to the Water Services Authority the final plan within a time frame notified in the *Gazette* by the Water Services Authority.~~
- ~~(2) The water service provider must publish the final plan on an internet site that is maintained by, or on behalf of, the provider.~~

#### **168A Consultation on proposed plan**

- (1) When preparing a stormwater network risk management plan, a water service provider must—
  - (a) undertake public consultation; and
  - (b) consult—
    - (i) the Water Services Authority;
    - (ii) the regional council in whose region the provider’s service area is located;
    - (iii) transport corridor managers with responsibilities in the provider’s service area;
    - (iv) if the provider is a water organisation, any territorial authority that is a shareholder in the water organisation.

#### Consultation materials

- (2) The provider must prepare—

- (a) a statement of proposal; and
- (b) if the provider considers on reasonable grounds that a summary of the statement of proposal is necessary to enable public understanding of the proposal, a summary of the information contained in the statement of proposal: 5
- (c) if the provider considers on reasonable grounds that it is necessary to enable public understanding of the proposal, a summary of the information contained in the statement of proposal.
- (3) A summary of the information contained in a statement of proposal must—
- (a) be a fair representation of the major matters in the statement of proposal; and 10
- (b) be in a form determined by the water service provider; and
- (c) for the purpose of public consultation, indicate where the statement of proposal is available.
- Public consultation* 15
- (4) The provider must—
- (a) make the following publicly available:
- (i) the statement of proposal;
- (ii) any summary prepared under **subsection (2)(c)**:
- (iii) a description of how the provider will give persons interested in the proposal an opportunity to present their views to the provider: 20
- (iv) a statement of the period within which views on the proposal may be presented to the provider (the period must not end earlier than 1 month after the date on which the provider issues the statement of proposal); and 25
- (b) make the statement of proposal (and, if applicable, the summary of the information contained in the statement of proposal) as widely available as is reasonably practicable as a basis for consultation; and
- (c) provide an opportunity for interested members of the public to present their views to the provider; and 30
- (d) ensure that any member of the public who wishes to present their views to the provider—
- (i) is given a reasonable opportunity to do so; and
- (ii) is informed about how and when they may do so.
- (5) For the purposes of, but without limiting, **subsection (4)(d)**, the provider may allow any person to present their views to the territorial authority by way of audio link or audiovisual link. 35

*Consultation with specified persons and bodies*

(6) The provider must give the following to the bodies referred to in **subsection (1)(b):**

- (a) the statement of proposal:
- (b) any summary prepared under **subsection (2)(c):** 5
- (c) a statement of the period within which the persons and bodies consulted must give their views on the proposal may (the period must not end earlier than 1 month after the date on which the provider issues the statement of proposal).

*Other matters*

(7) This section does not prevent a territorial authority from requesting or considering, before making a decision, any comment or advice from any person in relation to the proposal. 10

(8) Consultation on a proposal under this section must be undertaken in a manner that gives effect to section 82 of the LGA 2002 (principles of consultation), but each reference in that section to a local authority must be read as a reference to the water service provider. 15

Compare: 2002 No 84 ss 83, 83AA

**169 Review of plan**

(1) A water service provider ~~stormwater network manager~~ must review and, as necessary, revise its stormwater infrastructure risk management plan at least once every ~~5-10~~ years. 20

(2) A water service provider must undertake consultation in accordance with **section 168A** in relation to a proposal to amend a stormwater network risk management plan unless the provider is satisfied that the amendment— 25

- (a) is minor or technical, not adversely and substantially affect; and
- (b) will not adversely and substantially affect the operation of any infrastructure.

*Stormwater network bylaws***170 Stormwater network bylaws** 30

(1) ~~A water service provider that is responsible for stormwater network management in its service area may make~~ Water services bylaws that a territorial authority may make under **section 347** include stormwater network bylaws to support the provider's stormwater network risk management plan (*see **section 347(1)(d)***). 35

*Scope of bylaws*

(2) Without limiting **subsection (1)**, stormwater network bylaws may impose requirements—

- (a) in relation to ~~managing the management and operating operation~~ of critical infrastructure and all other parts of the stormwater network that can affect the operation of critical infrastructure (*see* **section 167(1)(c)**); and
- (b) on the owners of private land in relation to ~~managing the management of~~ overland flow paths and watercourses (*see* **section 167(1)(g)(ii)**); and 5
- (c) in relation to any matter concerning the management and operation of the stormwater network, including—
- (i) obstructions and diversions of stormwater; and
- (ii) ground soakage systems; and 10
- (iii) alterations to the network; and
- (iv) damage to the network.
- (3) Without limiting **subsection (2)(b)**, stormwater network bylaws may require private landowners to notify the water service provider about—
- (a) any impairment of the capacity of a relevant overland flow path or watercourse to receive stormwater from, or take stormwater to, other infrastructure in the network; and 15
- (b) any activity the landowner proposes to carry out near the flow path or watercourse that has the potential to cause an impairment of that capacity. 20
- (3A) A territorial authority must not make a stormwater network bylaw in relation to an overland flow path within or crossing a transport corridor.
- Private owners must comply*
- (4) An owner of private land that has an overland flow path or a watercourse crossing over or beneath it must comply with any stormwater network bylaw that applies to that land. 25
- (5) Nothing in sections 142 and 173A prevents a stormwater infrastructure bylaw from applying to a private owner (as defined in section 173A).
- ~~171 Stormwater network bylaws: limitations~~**
- ~~A water service provider must not make a stormwater network bylaw in relation to an overland flow path within or crossing a transport corridor.~~ 30
- ~~172 Stormwater network bylaws: process for making~~**
- ~~(1) Before making a bylaw, a water service provider must—~~
- ~~(a) send a copy of the proposed bylaw to the Water Services Authority for comment; and~~ 35
- ~~(b) follow the process set out in section 148(2) to (4) of the LGA 2002 as if the bylaw were being made under that Act.~~

- (2) ~~On making a bylaw, the water service provider must make the bylaw available—~~
- (a) ~~for public inspection free of charge at the provider’s public office during ordinary office hours; and~~
- (b) ~~on a publicly accessible internet site maintained by or on behalf of the provider.~~ 5

*Obligations of owners of private land*

**173 Application of sections ~~174~~ 173A and 175**

~~Sections 174 and 175~~ **Sections 173A to 175** apply to ~~privately owned land that has an overland flow path or a watercourse crossing over or beneath it.—~~ 10

- (a) infrastructure that conveys stormwater to, or receives stormwater from, an overland flow path or a watercourse that crosses over or beneath private land; and
- (b) infrastructure (including infrastructure described in **paragraph (a)**) that is privately owned and is part of the conveyance of stormwater in a stormwater network. 15

**173A Water service provider and private owner to manage critical infrastructure risks**

- (1) This section applies if a stormwater network risk management plan identifies a risk in relation to critical infrastructure. 20
- (2) The water service provider in whose service area the infrastructure is located must work collaboratively with the private owner to develop and implement a solution to manage the risk.
- (3) The provider must develop and implement its own solution if— 25
- (a) a collaborative approach cannot be achieved within a reasonable time; or
- (b) the private owner is unable to implement an agreed solution.
- (4) In this section,—
- manage**, in relation to a risk, means— 30
- (a) to take action—
- (i) to eliminate the risk; or
- (ii) if elimination is not practicable, to minimise the risk so far as practicable; and
- (b) to monitor the effectiveness of those actions
- private owner** means the person who owns— 35
- (a) land referred to in **section 173(a)**; or
- (b) infrastructure referred to in **section 173(b)**.

**174 ~~Landowner~~ Private owner who impairs stormwater flow**

- (1) This section applies if any activity of a private owner ~~an owner of the land~~ impairs the capacity of an overland flow path or watercourse to receive stormwater from, or take stormwater to, other infrastructure in the network—
- (a) in contravention of a stormwater bylaw; or 5
  - (b) without a resource consent required under the Resource Management Act 1991 for the activity.
- (2) The private owner must—
- (a) remedy the impairment as soon as practicable; or
  - (b) pay the reasonable costs incurred by the water service provider in remedying the impairment. 10
- (3) The private owner is not required to remedy an impairment to which this section relates that is caused by—
- (a) an act or omission of another person in relation to other land; or
  - (b) a breach of this Act or of any regulations, bylaws, or rules made under this Act, by another person in relation to other land; or 15
  - (c) a natural disaster.

**175 ~~Landowner~~ Private owner to notify territorial authority of proposed activity**

~~An owner of private land~~ A private owner who proposes to carry out an activity that could impair the capacity of a flow path or watercourse to receive stormwater from, or take stormwater to, other infrastructure in the network must notify the water service provider of the proposed activity before carrying out the activity ~~beginning work~~. 20

*Integrated management of stormwater network* 25

**176 Service agreements for stormwater network**

- (1) A water service provider ~~may enter into a service agreement with any 1 or more entities that have a statutory role, function, or interest in the operation of any stormwater infrastructure in the provider's service area.~~
- (a) must enter into a service agreement with a transport corridor manager in relation to local roads located within the provider's service area; and 30
  - (b) may enter into a service agreement with any 1 or more other entities that have a statutory role, function, or interest in the operation of any stormwater infrastructure in the provider's service area.
- (2) The purposes of a service agreement are— 35
- (a) to support the integrated management of stormwater infrastructure in the provider's service area by ~~all~~ concerned parties (including the provider); and

- (b) to provide a framework for managing ~~the management of~~ interactions between those concerned parties, including in relation to—
- (i) collaborative working practices; and
  - (ii) information sharing; and
  - (iii) dispute resolution. 5
- (3) A service agreement must—
- (a) specify—
    - (i) the stormwater infrastructure and the stormwater services to which it applies; and
    - (ii) the stormwater infrastructure in the provider’s service area to which the agreement does not apply; and 10
    - (iii) the parties to the agreement; and
  - (b) describe the roles and responsibilities of those parties in relation to the management, operation, and maintenance of the stormwater infrastructure to which the agreement applies; and 15
  - (c) state how the stormwater services to which the agreement applies are to be funded.

### Subpart 8—Discharge of sewage and trade waste

#### 177 Discharge of sewage and trade waste

- (1) The discharge of wastewater ~~domestic sewage~~ into a wastewater network ~~sewerage drain~~ under the control of a territorial local ~~territorial local~~ authority in accordance with the bylaws of the territorial local ~~territorial local~~ authority, and the discharge of trade waste into a wastewater network ~~sewerage drain~~ in accordance with a trade waste bylaw ~~bylaws~~, is not a breach of—
- (a) this Act; or 25
  - (b) the LGA ~~Local Government Act~~ 2002; or
  - (c) the Resource Management Act 1991 or regulations made under that Act; or
  - (d) the Building Act 2004 or regulations made under that Act.
- (2) However, this section does not absolve a water service provider from liability 30 for the discharge, in contravention of this Act, the LGA ~~Local Government Act~~ 2002, or the Resource Management Act 1991, of a contaminant from a wastewater network ~~sewerage drain~~ under the control of the water service provider.
- (3) ~~The Water Services Authority may, by notice in the Gazette, declare that a bylaw made by a local authority and specified in the notice is a trade waste bylaw for the purposes of this section.~~ 35

Compare: 2002 No 84 s 195

**178 Discharge of trade waste**

(1) The occupier of trade premises within the district of a territorial authority may discharge into the wastewater network ~~sewerage drains~~ under the control of the territorial authority trade waste proceeding from those premises either—

- (a) with the consent of the territorial authority; or 5
- (b) without consent if, and to the extent that, the discharge is permitted by a trade waste discharge plan or a trade waste bylaw ~~bylaws~~.

(2) This section does not override any trade waste bylaws or the Resource Management Act 1991.

Compare: 2002 No 84 s 196 10

Subpart 9—Other operational matters**178A Restriction of water service to person who commits offence, etc**

(1) A water service provider may, in any way it considers appropriate, restrict the water supply to a person's property if the person—

- (a) commits an offence against this Act; or 15
- (b) contravenes, or refuses or fails to comply with, a water services bylaw made under **section 347** (including by committing an infringement offence specified in a water services bylaw under **section 356**); or
- (c) contravenes, or refuses or fails to comply with, any other requirement of this Act or any requirement by a water service provider or a compliance officer; or 20
- (d) obstructs a compliance officer appointed under **section 366** in the performance of the officer's compliance powers, including by denying the officer entry to the person's land.

(2) The provider must not restrict water supply to a person's property if the restriction, due to the circumstances or manner in which it is imposed,— 25

- (a) creates unsanitary conditions at the property; or
- (b) conflicts with the duty to ensure that a sufficient quantity of drinking water is provided under section 25 of the Water Services Act 2021.

Compare: 2002 No 84 s 193 30

**Part 4****Planning, reporting, and financial management****179 Outline of this Part**

(1) **Subparts 1 and 2** provide for a cycle of planning, performance, and reporting that promotes accountability to consumers of water services and to shareholders in water organisations. The cycle includes the following requirements: 35

- (a) the shareholders of each water organisation must prepare and adopt a statement of expectations for the water organisation:
  - (b) each water service provider must prepare and adopt a water services strategy, an annual budget, and an annual report.
- (2) **Subpart 3** provides additional planning, reporting, and performance requirements for water organisations. 5
- (3) **Subpart 4** sets out financial matters, including provisions relating to operating revenues, borrowing in foreign currency, and income tax.

### **179A Responsibilities under this Part**

- (1) The following water service providers are responsible for preparing and adopting a water services strategy, a water services annual budget, and a water services annual report: 10
- (a) a water service provider that is a territorial authority, but only in relation to the water services that the territorial authority provides—
    - (i) directly; or 15
    - (ii) through a contract with a third party; or
    - (iii) through a joint water service provider arrangement:
  - (b) a water organisation, in relation to—
    - (i) in the case of water organisations other than an Auckland water organisation, the water services that it provides under a transfer agreement; or 20
    - (ii) in the case of an Auckland water organisation,—
      - (A) its responsibilities for water supply and wastewater services, as defined in section 4(1) of the Local Government (Auckland Council) Act 2009, in Auckland; and 25
      - (B) any other water services, if responsibilities are transferred by Auckland Council to an Auckland water organisation using a transfer agreement under **section 11 or 13** of this Act.
- (2) However, a territorial authority or regional council that is responsible for providing only a minor aspect of a water service that is not connected to a water supply network, wastewater network, or stormwater network that is provided by another water service provider— 30
- (a) need not prepare and adopt a water services strategy, a water services annual budget, or a water services annual report in respect of those services; but 35
  - (b) if it does not prepare and adopt all of those documents under this Part, must include information relevant to the minor aspect of the water service in its planning and reporting documents prepared under Part 6 of the

LGA 2002, with appropriate modifications to reflect the minor nature of the aspect of the water service that it provides.

- (3) For the purposes of **subsection (2)**, examples of a minor aspect of a water service include—
- (a) wastewater services for a community facility, such as a campground, that is not connected to a wastewater network; and 5
  - (b) a water supply for a small number of rural homes that are not connected to a water supply network.
- 180 Interpretation**
- In this Part, unless the context otherwise requires,— 10
- statement of expectations** means a statement of expectations required under **section 184 or 185**
- water services annual budget** means a water services annual budget required under **section 200**
- water services annual report** means a water services annual report required under **section 203 or 204** 15
- water services strategy** means a water services strategy required under **section 190 or 191**.
- 181 Part applies in place of provisions in LGA 2002**
- (1) The following provisions of the LGA 2002 do not apply to a council-controlled organisation that is a water organisation or its shareholders: 20
- (a) section 64 (statements of intent for council-controlled organisations):
  - (b) section 64A (shareholders may require additional plans):
  - (c) section 64B (statement of expectations):
  - (d) section 65 (performance monitoring): 25
  - (e) section 66 (half-yearly or quarterly reports):
  - (f) section 67 (annual report):
  - (g) section 68 (content of reports on operations of council-controlled organisations):
  - (h) section 69 (financial statements and auditor’s report): 30
  - (i) Schedule 8 (statements of intent for council-controlled organisations).
- (2) A territorial authority that is required to comply with this Part must not include information relating to water services in—
- ~~(a) an infrastructure strategy prepared under section 101B of the LGA 2002;~~
  - (b) a long-term plan prepared under section 93 and Schedule 10 of the LGA 2002: 35

- (c) an annual plan prepared under section 95 and Schedule 10 of the LGA 2002:
  - (d) an annual report prepared under section 98 and Schedule 10 of the LGA 2002.
- (3) However, **subsection (2)(b) and (d)** only prohibit a territorial authority from including information that relates to an individual group of water services activities. 5

### 182 Failure to comply with this Part or water services strategy

A failure by a water service provider to comply with any requirement in this Part, or to implement a proposal contained in its water services strategy ~~(prepared under **section 190 or 191**)~~, does not affect the validity or enforceability of any deed, agreement, right, or obligation entered into, obtained, or incurred by that water service provider. 10

### 183 Publication requirements

- (1) The parties listed in **subsection (3)** must publish the documents listed in **subsection (2)** on an internet site maintained by or on behalf of the relevant party— 15
- (a) no later than 1 month after the document is adopted; and
  - (b) for at least 7 years.
- (2) The obligation in **subsection (1)** applies to the following documents prepared and adopted under this Part: 20
- (a) a statement of expectations (*see sections 184 to 189*):
  - (b) a water services strategy (*see sections 190 to 199*):
  - (c) a water services annual budget (*see sections 200 to 202*):
  - (d) a water services annual report (*see sections 203 to 207*): 25
  - (e) a water services half-yearly report (*see section 208*):
  - (f) an additional plan or report required to be prepared under **section 209**.
- (3) The parties that must publish each document are—
- (a) for a statement of expectations, each shareholder in the relevant water organisation and the water organisation: 30
  - (b) for a water services strategy, the relevant water service provider:
  - (c) for a water services annual budget, the relevant water service provider:
  - (d) for a water services ~~an~~ annual report, the relevant water service provider and, if the water service provider is a water organisation, each shareholder in the water organisation: 35
  - (e) for a water services half-yearly report, the relevant water organisation and each shareholder in the water organisation:

- (f) for an additional plan or report, the relevant water organisation and each shareholder in the water organisation.

## Subpart 1—Planning

### *Statement of expectations*

- 184 Statement of expectations** 5
- (1) The shareholders of a water organisation must prepare a statement of expectations and provide it to the water organisation at least 6 months (or such longer period as is agreed between the shareholders and the water organisation) before the water organisation is required to prepare a water services strategy (*see **section 190 or 191***). 10
- (2) A statement of expectations must relate to a period of at least 10 consecutive financial years.
- (3) The purpose of a statement of expectations is—
- (a) to set out the shareholders’ expectations of the water organisation; and
- ~~(b) to set the priorities and strategic direction of the water organisation; and~~ 15
- (c) to inform and guide—
- (i) the decisions and actions of the water organisation; and
- (ii) the water organisation’s preparation of its water services strategy (*see **section 190 or 191***), including its strategic priorities (*see **clause 2(1)(a) of Schedule 3***). 20
- 185 Statement of expectations for new water organisation**
- (1) This section applies when a water organisation is established after the date on which this section comes into force.
- (2) Despite anything to the contrary in **section 184**, the shareholders in the water organisation must prepare a statement of expectations under **section 184** and provide it to the water organisation— 25
- (a) as soon as practicable after the date on which the water organisation is established; but
- (b) no later than 6 months after the date on which the water organisation is established. 30
- (3) The shareholders may provide the water organisation with a document setting out the shareholders’ interim expectations of the water organisation (an **interim statement**) that applies between—
- (a) the date on which the water organisation is established; and
- (b) the date on which the shareholders provide the statement of expectations to the water organisation under **subsection (2)**. 35

- (4) In addition to the shareholders' expectations, an interim statement may also include, to the extent permitted by **section 188**, either or both of the following:
- (a) directions for the operation of the water organisation:
  - (b) priorities for the water organisation. 5
- (5) The shareholders may start preparing the statement of expectations or an interim statement before the date on which the water organisation is established.
- 186 Water organisation must give effect to statement of expectations**
- A water organisation must give effect to a statement of expectations provided by the shareholders of the water organisation. 10
- 187 Content of statement of expectations**
- (1) A statement of expectations prepared under this subpart must include—
- (a) ~~the shareholders' expectations of the water organisation, including how the shareholders expect the water organisation—~~ 15
    - (i) ~~to meet the objectives set out in **section 15**; and~~
    - (ii) ~~to perform its duties and functions and exercise its powers; and~~
  - (b) ~~the shareholders' strategic priorities for the water organisation; and~~
  - (c) the outcomes that the shareholders expect the water organisation to achieve by providing ~~delivering~~ water services; and 20
  - (d) requirements relating to the territorial authority's resource management planning and land use ~~land use~~ planning that are relevant to the water organisation's service area; and
  - (e) a requirement that the water organisation must act in accordance with any relevant statutory obligation that applies to a shareholder that is a territorial authority; and 25
  - (f) the information that the water organisation must include in its water services half-yearly report (*see* **section 208**).
- (2) A statement of expectations may include any other matters the shareholders decide, including, for example,— 30
- (a) how the shareholders require the water organisation to conduct its relationships with—
    - (i) the shareholders:
    - (ii) the shareholders' communities or any specified stakeholders within those communities: 35
    - (iii) hapū, iwi, and other Māori organisations:
    - (iv) consumers in the water organisation's service area:

- (b) performance indicators and measures that the shareholders may use to monitor the water organisation:
- (ba) expectations relating to the strategic priorities to be included in the water organisation’s water services strategy:
- (c) a requirement that the water organisation must act in accordance with an obligation that a shareholder that is a territorial authority may have with a third party (including with hapū, iwi, or other Māori organisations) under a contract or other agreement: 5
- (d) a requirement that the water organisation undertake a specified obligation on behalf of a shareholder that is a territorial authority: 10
- (e) a requirement to undertake community or consumer engagement, and the contents of that engagement:
- (f) expectations in relation to collaborating with the shareholders and other parties when providing water services:
- (g) a requirement that part or all of the water organisation’s water services strategy must be independently reviewed or audited. 15
- (3) A statement of expectations may contain a matter that applies—
- (a) to all or a specified part of the water services provided by the water organisation (for example, a matter that applies only to wastewater):
- (b) to all or a specified part of the water organisation’s service area (for example, a matter that applies only to a territorial authority’s district). 20

### 188 Additional requirements of statement of expectations

- (1) A statement of expectations must be consistent with—
- (a) all legislative obligations that apply to the water organisation; and
- ~~(b) the constitution of the water organisation (if any); and~~ 25
- ~~(c) if the water organisation does not have a constitution, all rules and other documents that establish or govern the water organisation; and~~
- (ca) the water organisation’s foundation documents; and
- (d) the water organisation’s responsibilities ~~—, as specified in a transfer agreement.~~ 30
- (i) in the case of an Auckland water organisation, for providing a water supply service and wastewater services; and
- (ii) in all other cases, as specified in a transfer agreement.
- (2) If a water organisation is financially independent of its shareholders, the statement of expectations must not include any requirements or expectations that would compromise that financial independence. 35
- (3) The statement of expectations must not include any requirements or expectations that—

- (a) relate to the water organisation's performance or exercise of a duty, function, or power under this Act; or
- (b) require the water organisation to perform, or not to perform, a specified act, or to achieve a specified result, in relation to a specified person or persons. 5
- (4) However, **subsection (3)** does not apply if the water organisation's foundation documents provide otherwise.
- 189 Statement of expectations: process and limits**
- (1) The shareholders of a water organisation may only provide 1 statement of expectations to a water organisation at any time. 10
- (2) If a water organisation receives a statement of expectations that is inconsistent with a direction or requirement imposed by a regulator, the ~~regulatory~~ regulator's direction or requirement prevails to the extent of the inconsistency.
- (3) The shareholders of a water organisation must publish, on an internet site maintained by or on behalf of 1 or more of the shareholders, the process that the shareholders must follow to prepare a statement of expectations. 15
- (3A) The process to prepare a statement of expectations must include the following:
- (a) the shareholders must provide a draft of the statement of expectations to the water organisation:
- (b) the shareholders must give the water organisation a reasonable opportunity to review the draft statement and provide comments: 20
- (c) the shareholders must consider any comments provided by the water organisation before finalising the statement of expectations.
- (4) In **subsection (2)**, **regulator** means 1 or more of the following:
- (a) the Water Services Authority: 25
- (b) the Commerce Commission:
- (c) a regional council or unitary authority (as that term is defined in the LGA 2002) in whose region the water organisation provides water services.

*Water services strategy* 30

**190 Water services strategy**

- (1) A water service provider must—
- (a) prepare a water services strategy in accordance with this Part; and
- (b) have a water services strategy in place at all times.
- (2) A water service provider must adopt its water services strategy before the start of the first financial year to which the strategy relates. 35
- (3) A water services strategy must—

- (a) come into force on the first day of the first financial year to which the water services strategy relates; and
  - (b) continue in force until the end of the third consecutive financial year to which it relates; and
  - (c) relate to a period of at least 10 consecutive financial years or such other period as is specified in this Part or **Schedule 3**. 5
- (4) A water services strategy must be prepared and adopted,—
- (a) in the case of a water service provider that is a water organisation, by the water organisation; or
  - (b) in the case of a water service provider that is a territorial authority, by resolution of the territorial authority. 10

### 191 Water services strategy for new water organisation

- (1) This section applies when a water organisation is established after the date on which this section comes into force.
- (2) Despite anything to the contrary in **section 190**, the water organisation must prepare and adopt a water services strategy under **section 190**— 15
- (a) as soon as practicable after the date on which the water organisation is established; but
  - (b) before the start of the first financial year to which the strategy relates.
- (3) The shareholders of the water organisation and the water organisation may agree to 1 or more of the following matters: 20
- (a) that the water services strategy of the water organisation may come into force on a date other than the first day of a financial year:
  - (b) that the water services strategy may cover a period other than what would otherwise be required under this Act— 25
    - (i) due to the strategy having come into force on a date other than the first day of a financial year; or
    - (ii) to enable the water organisation's next water services strategy to align with the timing requirements for the shareholders' long-term plans under section 93 of the LGA 2002. 30
- ~~(4) Before the water services strategy comes into force, the long term plan or existing water services strategy (as applicable) of each territorial authority that is a shareholder in the water organisation continues to apply.~~
- (4) If a water organisation is established before its first water services strategy is in force, each territorial authority that establishes the water organisation must agree with the following parties the interim arrangements that will apply until the first water services strategy is in force: 35
- (a) each other shareholder of the water organisation (if any):

- (b) the board of the water organisation or, if the board has not yet been appointed, a representative of the water organisation.
- (4A) The interim arrangements may include any of the following:
- (a) relevant parts of the long-term plan of each territorial authority that is a shareholder in the water organisation remain in force until the water organisation’s water services strategy comes into force: 5
- (b) relevant parts of the water services strategy of each territorial authority that is a shareholder in the water organisation remain in force until the water organisation’s water services strategy comes into force:
- (c) any other business planning or budgetary documents that can— 10
- (i) guide the water organisation’s operations; and
- (ii) be used for the purposes of monitoring and reporting on the water organisation’s performance.
- (5) The interim arrangements cease ~~A long term plan or existing water services strategy (referred to in **subsection (4)**) ceases to apply when the water organisation’s first water services strategy comes into force.~~ 15

## 192 Purpose of water services strategy

- (1) The purpose of a water services strategy is—
- (a) for the water service provider to state publicly, for the period to which the strategy relates,— 20
- (i) the water services activities that it intends to carry out to achieve the objectives specified in **section 15** and any other outcomes; and
- (ii) in the case of a water organisation, how the intended activities will contribute to the expectations, outcomes, or any other relevant matters set out in the water organisation’s statement of expectations; and 25
- (b) ~~to provide transparency about the costs of, and level of investment associated with,—~~
- (i) ~~providing water services; and~~ 30
- (ii) ~~meeting regulatory requirements; and~~
- (iii) ~~meeting the objectives set out in **section 15** and any other outcomes; and~~
- (c) to provide a basis for the water service provider to be accountable to the following for its performance in providing water services: 35
- (i) in the case of a water service provider that is a territorial authority, the communities in the authority’s district:
- (ii) in the case of a water service provider that is a water organisation, the water organisation’s shareholders; and

- (d) ~~to provide transparency about, and support integrated decision-making in relation to, the water service provider's—~~
- (i) ~~proposed charges;~~
  - (ii) ~~proposed service levels;~~
  - (iii) ~~financial forecasting information;~~ 5
  - (iv) ~~long-term infrastructure and investment plans; and~~
- (e) to present, in 1 document, ~~detailed~~ information that relates to a water service provider's provision of water services throughout the water service provider's service area for the purposes of providing transparency about, and supporting decision-making in relation to,— 10
- (i) the costs of, and investment associated with, providing water services; and
  - (ii) the water service provider's proposed charges, levels of service, and performance measures; and
  - (iii) financial forecasting; and 15
  - (iv) long-term infrastructure and investment plans.
- (2) Despite **subsection (1)(e)**, a water services strategy may include different information or proposals in relation to different parts of the water service provider's service area.
- (3) For a water organisation,— 20
- (a) the purpose of the water services strategy is also to provide an opportunity for the shareholders of the water organisation to—
    - (i) participate in the water organisation setting its strategic intentions and performance framework; and
    - (ii) influence the strategic direction of the water organisation; and 25
  - (b) a water services strategy must be consistent with—
    - (i) ~~the constitution of the water organisation (if any); and~~
    - (ii) ~~if the water organisation does not have a constitution, all rules and other documents that establish or govern the water organisation; and~~ 30
    - (i) the water organisation's foundation documents; and
    - (ii) if the water organisation is an Auckland water organisation, its responsibilities for providing a water supply and wastewater services under the Local Government (Auckland Council) Act 2009; and 35
    - (iii) if the water organisation is not an Auckland water organisation, its ~~the water organisation's~~ responsibilities, as specified in a transfer agreement.

**193 Effect of adopting water services strategy**

- (1) The effect of a water services strategy adopted by a water service provider is to provide a formal and public statement of the provider's intentions in relation to the matters covered by the strategy.
- (2) A resolution to adopt a water services strategy does not constitute a decision to act on any specific matter included in the strategy. 5
- (3) A water service provider may make a decision that is inconsistent with the contents of a water services strategy.
- (3A) If a decision of a water organisation is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, the organisation's water services strategy, the water organisation must, when making the decision, clearly identify— 10
- (a) the inconsistency; and
- (b) the reasons for the inconsistency; and
- (c) any intention of the water organisation to amend the water services strategy to accommodate the decision. 15
- (3B) However, **subsection (3)** does not apply to a decision of a water service provider to set a charge under **section 60**.
- (4) No person is entitled to require a water service provider to implement the provisions of a water services strategy. 20
- (5) However, in the case of a water services strategy adopted by a water service provider that is a territorial authority, this section applies subject to—
- (a) section 80 of the LGA 2002; and
- (b) Part 4A of the Local Government (Rating) Act 2002.

**194 Contents of water services strategy** 25

- (1) A water services strategy must contain—
- (a) the information specified in **Schedule 3**; and
- (b) any information that the water service provider is required to publicly disclose in a water services strategy under subpart 4 of Part 4 of the Commerce Act 1986; and 30
- (c) in the case of a water organisation, ~~any other information that the shareholders of the water organisation require.~~
- (i) any information that the shareholders of the water organisation require; and
- (ii) an explanation of any information contained in the water services strategy that is included to give effect to a decision made by a shareholder. 35

- (1A) Information included in a water services strategy must be consistent with any applicable requirements or determinations issued by the Commerce Commission under Part 4 of the Commerce Act 1986.
- (2) All information that is included in a water services strategy must, ~~unless otherwise required under Part 4 of the Commerce Act 1986,~~ be prepared in accordance with generally accepted accounting practice if that information is of a form or nature for which generally accepted accounting practice has developed standards. 5
- (3) However, the requirement in **subsection (2)** does not apply—
- (a) if Part 4 of the Commerce Act 1986 makes alternative requirements; or 10
- (b) to a funding impact statement that is included in the strategy (see **clause 5(2)(e) of Schedule 3**).

#### 195 Process for making water services strategy: territorial authorities

- (1) A territorial authority that is a water service provider must,—
- (a) in addition to preparing a draft water services strategy under this subpart, prepare a summary of the major matters in the draft water services strategy; and 15
- (b) consult its communities on the summary; and
- (c) when consulting under **paragraph (b)**, use the special consultative procedure under the LGA 2002 (see sections 83, 83AA, and 83A of that Act). 20
- (2) The summary under **subsection (1)(a)** must—
- (a) identify and explain the important issues and choices facing the territorial authority in relation to providing water services, and the consequences of those choices; and 25
- (b) include information about the likely consequences of implementing the water services strategy on—
- (i) charges for providing water services; and
- (ii) rates collected under the Local Government (Rating) Act 2002; and 30
- (iii) the debt of the territorial authority; and
- (iv) the level of service provided by the territorial authority; and
- (v) the territorial authority's ability to provide for urban development and housing in its district.
- (3) When using the special consultative procedure,— 35
- (a) each reference to a statement of proposal must be read as a reference to a ~~the~~ draft water services strategy; and

- (b) each reference to a summary of the information must be read as a reference to ~~a~~ the summary under **subsection (1)(a)**.
- (4) If a territorial authority consults on the summary at the same time as consulting on its long-term plan under the LGA 2002, or as part of any other combined or concurrent consultation under section 83A of the LGA 2002,— 5
- (a) the summary must form a discrete part of the consultation material; and
- (b) the approach to consultation, and any consultation material used, must be consistent with the purpose of the water services strategy in **section 192**.
- (5) If a territorial authority wishes to include a proposal to change how water services are provided in its district (*see* **section 25**) in its water services strategy, and to consult on that proposal as part of consultation on the strategy,— 10
- (a) **section 28** does not apply; and
- (b) the information required to be made publicly available under **section 28(1)** must be included in a summary prepared under **subsection (1)(a)**. 15

#### 196 Process for making water services strategy: water organisations

- ~~(1) A water organisation must prepare a draft water services strategy in accordance with this Part and provide it to the organisation's shareholders for comment no later than— 20~~
- ~~(a) 1 March in the financial year before the first financial year to which the draft strategy relates; or~~
- ~~(b) any other date agreed with the shareholders.~~
- (1) A water organisation must— 25
- (a) prepare a draft water services strategy in accordance with—
- (i) this Part; and
- (ii) the water organisation's significance and engagement policy; and
- (b) provide the draft strategy to the organisation's shareholders for comment no later than—
- (i) 1 March in the financial year before the first financial year to which the draft strategy relates; or 30
- (ii) any other date agreed with the shareholders.
- (2) The shareholders of the water organisation must determine the nature of their involvement in preparing and finalising the water services strategy, including whether— 35
- (a) the shareholders will be able to, as necessary,—
- (i) provide comments on the draft strategy:
- (ii) require the water organisation to amend the draft strategy:

- (iii) approve the final strategy; or
- (b) the shareholders will be able to provide comments on the draft water services strategy but will not have the power to require changes or approve the final strategy.
- (2A) However, if a shareholder that is a territorial authority is able to approve the final strategy, it must comply with the decision-making requirements in the LGA 2002. 5
- (3) The shareholders of the water organisation must ensure that information on the nature of their involvement in preparing and finalising the water services strategy under **subsection (2)** is included in the water organisation's foundation documents.— 10
- ~~(a) the water organisation's constitution; or~~
- ~~(b) if the water organisation does not have a constitution, any other rules or other documents that establish or govern the water organisation.~~
- (4) The water organisation must— 15
- (a) consider any comments the shareholders provide on the draft strategy; and
- (b) comply with any requirements set by shareholders in accordance with the approach determined in the water organisation's foundation documents ~~a document referred to in **subsection (3)**~~; and 20
- (c) adopt the final water services strategy in accordance with **section 190 subsection (1)**; and
- (d) provide the final water services strategy to shareholders before the start of the first financial year to which the strategy relates.
- (4A) When consulting its shareholders under this section, a water organisation that is owned by the trustees of 1 or more consumer trusts must also consult each territorial authority in whose district the water organisation operates on the following content of the organisation's water services strategy: 25
- (a) the territorial authority's resource management planning and land use planning in the water organisation's service area, including how the water organisation intends to respond to any requirements in the organisation's statement of expectations (see **section 187(1)(d)**); 30
- (b) the information relating to expected significant water infrastructure issues that is included in the strategy under **clause 2(3) of Schedule 3**. 35
- (5) This Act does not require a water organisation or its shareholders to consult communities or consumers on a draft water services strategy.
- ~~(6) However, if the shareholders of a water organisation require the water organisation to consult on any proposals contained in a draft water services strategy (in addition to the shareholders commenting on the strategy), the water organ-~~ 40

~~isation must use the special consultative procedure specified in section 83 of the LGA 2002.~~

- (7) However,—
- (a) a water organisation’s significance and engagement policy may require such consultation; and 5
- (b) if the shareholders of a water organisation require the water organisation to consult on any proposals contained in a draft water services strategy (in addition to the shareholders commenting on the strategy), the water organisation must consult in accordance with its significance and engagement policy. 10
- 197 Amending Territorial authority may amend water services strategy: territorial authority**
- (1) A territorial authority that is a water service provider may amend its water services strategy at any time.
- (2) If the amendment is significant, the territorial authority must consult on a summary of the proposed amendment using the special consultative procedure under the LGA 2002 (*see* sections 83, 83AA, and 83A of that Act). 15
- (2A) For the purposes of **subsection (2)**, a territorial authority’s significance and engagement policy may assist the territorial authority to determine whether an amendment is significant. 20
- (3) A territorial authority must comply with the requirements for consultation set out in **section 195** when proposing to amend a water services strategy.
- (4) For the purposes of **subsection (3)**, all references in **section 195** to a draft water services strategy must be read as referring to the draft amendment.
- (5) If a territorial authority amends its water services strategy and the amendment is relevant to the authority’s long-term plan,— 25
- (a) the territorial authority may consequentially amend the long-term plan; but
- (b) the amendments need not be audited under section 94 of the LGA 2002.
- 198 Amending Water organisation may amend water services strategy: water organisation** 30
- (1) A water organisation may amend its water services strategy at any time.
- (2) However, before amending the strategy, the water organisation must—
- (aaa) consider whether the organisation’s significance and engagement policy is relevant to the proposed amendment; and 35
- (aab) take any further action required to comply with the significance and engagement policy; and

- (a) give written notice to the shareholders of the water organisation of the proposed amendment; and
- (b) consider any comments made by the shareholders on the proposed amendment that—
- (i) the water organisation receives by a date agreed between the water organisation and the shareholders; and
- (ii) the shareholders make in accordance with the nature of their involvement determined by shareholders under **section 196(2)**. 5
- 199 Audit of water services strategy**
- (1) A water service provider— 10
- (a) must request a report from the Auditor-General on the provider’s water services strategy if the Secretary requires the provider ~~is required~~ to do so; ~~and by—~~
- (i) ~~the Secretary; or~~
- (ii) ~~the Commerce Commission; or~~ 15
- (b) may request a report from the Auditor-General on the provider’s water services strategy if the provider decides, on its volition, to do so.
- (2) A requirement under **subsection (1)(a)** for a water service provider to request a report must—
- (a) be made at least 12 months before the date by which the water services strategy must be adopted; and 20
- (b) be made by written notice to the water service provider.
- (3) A report from the Auditor-General provided under this section—
- (a) must comment on—
- (i) whether the strategy gives effect to the purpose of a water services strategy (*see* **section 192**); and 25
- (ii) the quality of the information and assumptions underlying the forecast information provided in the strategy; but
- (b) must not comment on the merits of the policy content of the strategy.
- (4) If the Auditor-General provides a report to a water service provider, the water service provider must include the report in its water services strategy. 30

*Water services annual budget*

- 200 Water services annual budget**
- (1) A water service provider must, for each financial year that is not the first financial year to which the provider’s water services strategy relates, prepare a water services annual budget. 35

- (2) A water service provider must adopt its water services annual budget before the start of the financial year to which the budget relates.
- (3) However, the following documents for the first financial year of a water services strategy must be treated as being the water service provider's water services annual budget adopted for that year: 5
- (a) the forecast financial statements included in the provider's water services strategy under **clause 5(1) and (2)(d) of Schedule 3:**
- (b) the funding impact statement included in the provider's water services strategy under **clause 5(2)(e) and (6) of Schedule 3.**
- 201 Contents of water services annual budget** 10
- (1) A water services annual budget must, for the relevant financial year,—
- (a) contain the water service provider's proposed budget, including—
- (i) if the water service provider is a territorial authority, any rates set under the Local Government (Rating) Act 2002; and
- (ii) fees and charges (including any charges set by a water organisation under **section 60**); and 15
- (iii) financial statements (as described in **clause 5(1) and (2)(d)(i) to (iii) of Schedule 3**); and
- (iv) a funding impact statement (as described in **clause 5(2)(e) and (6) of Schedule 3**); and 20
- (aa) contain any information that the water service provider is required to publicly disclose in the water services annual budget under Part 4 of the Commerce Act 1986; and
- (b) explain any significant variation between the information in the annual budget and the corresponding information in the water services strategy for the financial year; and 25
- (c) be consistent with the provider's intended approach to funding, revenue, and pricing for the financial year, as set out in its water services strategy (see **clause 5(2)(a) of Schedule 3**); and—
- (i) ~~the provider's intended approach to funding, revenue, and pricing for the financial year, as set out in its water services strategy (see **clause 5(2)(a) of Schedule 3**); and~~ 30
- (ii) ~~any requirements or determinations issued by the Commerce Commission under Part 4 of the Commerce Act 1986; and~~
- (d) be published in accordance with **section 183**. 35
- (2) In the case of a water organisation, the water services annual budget may include the list of charges that the organisation is required to publish under **section 64**.

- (3) Information included in a water services annual budget must be consistent with any applicable requirements or determinations issued by the Commerce Commission under Part 4 of the Commerce Act 1986.
- (4) All information that is included in a water services annual budget must be prepared in accordance with generally accepted accounting practice if that information is of a form or nature for which generally accepted accounting practice has developed standards. 5
- (5) However, the requirement in **subsection (4)** does not apply—
- (a) if Part 4 of the Commerce Act 1986 makes alternative requirements; or
- (b) to a funding impact statement that is included in the budget (see **clause 5(2)(e) and (6) of Schedule 3**). 10

## 202 Process for making water services annual budget

- (1) A water service provider is not required to consult on a water services annual budget.
- (2) In the case of a water organisation, the process for preparing a water services strategy under **section 196** applies, with all necessary modifications, to preparing a water services annual budget. 15

## Subpart 2—Reporting

### *Water services annual report*

- 203 Water services annual report: water organisation** 20
- (1) A water organisation must, in relation to each financial year, prepare and adopt a water services annual report that reports on the organisation's operations during that financial year.
- (2) The water organisation must adopt the annual report no later than 3 months after the end of the financial year to which it relates. 25
- (3) The water organisation must provide the annual report to the shareholders of the water organisation.
- (4) A water organisation's annual report under this Act may be combined with an annual report required under section 208 of the Companies Act 1993.
- (5) The purpose of a water services annual report for a water organisation is— 30
- (a) to enable the water organisation's shareholders and the public to make an informed assessment of the water organisation's performance; and
- (b) to compare the water organisation's intended activities and intended performance levels for providing water services, as set out in the water organisation's water services strategy for the financial year, with the actual activities and performance levels; and 35

- (c) to promote the water organisation's accountability to its shareholders for its performance throughout the financial year; and
- (d) to support the water organisation's shareholders' accountability to the shareholders' communities with respect to—
  - (i) the provision of water services; and
  - (ii) the water organisation's performance.

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#### **204 Annual report for new water organisation**

- (1) This section applies when a water organisation is established after the date on which this section comes into force.

~~(2) When this section applies, **section 203** does not apply.~~

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- (3) Despite anything to the contrary in **section 203**, a water organisation that is established less than 4 months before the end of a financial year, must, after the end of the organisation's first full financial year, prepare and adopt an annual report that covers the period from the date on which the organisation is established until the end of the first full financial year.

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- (4) If the water organisation's statement of expectations and water services strategy are not in place when the water organisation prepares its first annual report, the board of the water organisation and the organisation's shareholders must agree which documents the annual report will report against ~~with the Auditor General the arrangements for the organisation's first annual report, including any performance information that the water organisation must include in the annual report.~~

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#### **205 Water services annual report: territorial authority**

- (1) A water service provider that is a territorial authority must, in relation to each financial year, prepare and adopt by resolution a water services annual report that reports on the territorial authority's water services operations during that financial year.

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- (2) The territorial authority must adopt the annual report by resolution no later than 4 months after the end of the financial year to which it relates.

- (3) The purpose of a water services annual report for a water service provider that is a territorial authority is—

30

- (a) to compare the territorial authority's intended activities and intended performance levels for providing water services, as set out in the territorial authority's water services strategy for the financial year, with the actual activities and performance levels; and
- (b) to provide transparency of the territorial authority's activities, performance, and decisions in relation to providing water services; and

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- (c) to promote the territorial authority's accountability to its communities in relation to the decisions it has made in the financial year that relate to providing water services.
- (4) The territorial authority may include its water services annual report in its annual report prepared and adopted under section 98 of the LGA 2002 if, in doing so,— 5
- (a) the purposes of both annual reports are met; and
- ~~(b) the content relating to providing water services—~~
- ~~(i) forms a discrete part of the annual report; and~~
- ~~(ii) has an audit statement that is separate from the audit statement for the remainder of the annual report.~~ 10
- (b) the content relating to providing water services forms a discrete part of the annual report.

## 206 Contents of water services annual report

- (1) A water services annual report for a financial year must contain— 15
- (a) the information specified in **Schedule 4**; and
- (b) any information that the water service provider is required to publicly disclose in a water services annual report under subpart 4 of Part 4 of the Commerce Act 1986; and
- (c) a report by the Auditor-General on— 20
- (i) the financial statements required by **clause 2(1)(a) of Schedule 4**; and
- (ii) the statement relating to budgeted and actual capital expenditure required by **clause 4 of Schedule 4**; and
- (iii) the funding impact statement required by **clause 5 of Schedule 4**; and 25
- (iiia) each statement of service required by **clause 7 of Schedule 4**.
- ~~(iv) the water service provider's compliance with the applicable requirements specified in **Schedule 4**; and~~
- ~~(v) in the case of a water organisation, the performance targets and other measures by which the water organisation's performance was judged in relation to its objectives and outcomes (as set out in its water services strategy).~~ 30
- (1A) Information included in a water services annual report must be consistent with any applicable requirements or determinations issued by the Commerce Commission under Part 4 of the Commerce Act 1986. 35
- (2) All information that is included in a water services annual report must, ~~unless otherwise required under Part 4 of the Commerce Act 1986~~, be prepared in accordance with generally accepted accounting practice if that information is of

a form or nature for which generally accepted accounting practice has developed standards.

- (3) However, the requirement in **subsection (2)** does not apply—
- (a) if Part 4 of the Commerce Act 1986 makes alternative requirements; or
  - (b) to a funding impact statement (see **clause 5(2)(e) and (6) of Schedule 3**). 5

## 207 Auditor-General is auditor of water organisation

- (1) ~~For the purposes of preparing a water services annual report, the The Auditor-General is the auditor of for a water organisation.~~
- (2) ~~In accordance with section 5 of the Public Audit Act 2001, a water organisation is a public entity for the purposes of that Act.~~ 10
- (3) This section applies despite sections 207P to 207V of the Companies Act 1993.

### Subpart 3—Additional requirements for water organisations

#### *Water services half-yearly report*

- ## 208 Water services half-yearly report: water organisation
- 15
- (1) In each financial year, a water organisation must prepare and adopt a water services half-yearly report that reports on the organisation's operations during the first 6 months of the financial year.
- (2) A water organisation's water services half-yearly report must include the information that the organisation's statement of expectations requires ~~specifies~~. 20
- (3) The water organisation must provide the half-yearly report to its shareholders no later than 8 months after the start of the financial year.

#### *Additional management requirements*

## 209 Additional plans or reports: water organisation

- (1) The shareholders of a water organisation may require, by written notice, the water organisation to prepare additional plans or reports, including— 25
- (a) 1 or more thematic plans:
  - (b) an asset management plan:
  - (c) quarterly reports.
- (2) The written notice may be included in the shareholders' statement of expectations provided to the water organisation (*see* **section 184**). 30
- (3) A water organisation that receives a written notice must provide the additional plan or report to the shareholders in accordance with the written notice.
- (4) The written notice must specify—

- (a) the date by which the water organisation must provide the plan or report to the shareholders; and
  - (b) the matters to be addressed in the plan or report; and
  - (c) if relevant to the particular plan or report,—
    - (i) the period that the plan or report must cover; and 5
    - (ii) when the water organisation must report to shareholders on its progress against a plan.
- (5) If the shareholders require a water organisation to prepare quarterly reports, the water organisation must provide the quarterly reports no later than 2 months after the end of the first and third quarters of the relevant financial year. 10

### 210 Performance monitoring: water organisations

- (1) The shareholders of a water organisation must regularly monitor the performance of the water organisation.
- (2) The monitoring required under **subsection (1)** must include an annual review of the organisation's performance in giving effect to— 15
  - (a) the statement of expectations provided by the shareholders (*see section 184*); and
  - (b) the strategic priorities, objectives, and outcomes specified in the water organisation's water services strategy.

## Subpart 4—Financial matters 20

### 211 Financial management: water organisations

- (1) A water organisation must ensure that each year's projected operating revenues are set at a level sufficient to meet that year's projected operating expenses.
- (2) Despite **subsection (1)**, a water organisation may set projected operating revenues at a different level from that required by **subsection (1)** if the organisation determines that it is financially prudent to do so, having regard to— 25
  - (a) the estimated expenses of achieving and maintaining the intended service levels set out in the organisation's water services strategy, including the estimated expenses associated with maintaining the service capacity and integrity of assets in the water services infrastructure throughout their useful life; and 30
  - (b) the projected revenue available to fund the estimated expenses associated with maintaining the service capacity and integrity of assets in the water services infrastructure throughout their useful life; and
  - (c) the equitable allocation of responsibility for funding the provision and maintenance of assets and facilities in the water services infrastructure throughout their useful life. 35

- (3) A water organisation must manage its revenues, expenses, assets, liabilities, investments, and general financial dealings prudently and in a manner that promotes the current and future interests of the communities and consumers in its service area.
- (4) A water organisation must make adequate and effective provision in its water services strategy to meet the organisation's expenditure needs identified in that strategy. 5
- (5) This section does not limit the application of Part 4 of the Commerce Act 1986.
- 212 Borrowing in foreign currency**
- (1) A water organisation may borrow or enter into incidental arrangements within or outside New Zealand in currency other than New Zealand currency. 10
- (2) **Subsection (1) applies despite** ~~is not affected by~~ section 113 of the LGA 2002.
- 213 Charges as security**
- ~~(1) This section applies if—~~ 15
- ~~(a) a water organisation has granted a security interest over a charge or charging regime revenue as security for a loan or the performance of any obligations under an incidental arrangement; and~~
- ~~(b) a receiver has been appointed under section 40A or 40B of the Receiverships Act 1993 in respect of that loan or arrangement.~~ 20
- (1) This section—
- (a) applies if—
- (i) a water organisation has granted a security interest over water services charges or the revenue from water services charges as security for a loan or the performance of any obligations under an incidental arrangement; and 25
- (ii) a receiver has been appointed under section 40A or 40B of the Receiverships Act 1993 in respect of that loan or arrangement; but
- (b) does not apply to an Auckland water organisation.
- (2) The receiver may, without further authority than this section, assess and collect 30 in each financial year a water services charge under this section to recover sufficient funds to meet—
- (a) the payment of the water organisation's commitments in respect of the loan or arrangement during that year; and
- (b) the receiver's reasonable costs of administering, assessing, and collecting the water services charge. 35
- (3) However, a receiver may not create or receive any interest or security in water services infrastructure.

- (4) A water services charge under this section must be assessed as a uniform charge in the dollar on the water services charges payable by consumers—
- (a) in the water organisation’s service area; or
  - (b) if the water organisation resolved, at the time when the loan was being raised or the incidental arrangement was being entered into, that it was for the benefit of only a specified part of the service area, in that part. 5

**213A Obligation to consider cost-effectiveness of wastewater options**

- (1) This section applies when a water service provider makes a decision relating to—
- (a) options for providing wastewater infrastructure: 10
  - (b) options for treating wastewater.
- (2) The water service provider must, when making a decision under **subsection (1)**, choose the option it considers to be the most cost-effective option for providing wastewater services over the life of the infrastructure assets required to implement that option. 15

*Income tax*

**214 Consequences of transfer for purposes of Inland Revenue Acts**

- (1) For the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), the following entities are treated as the same person in the specified circumstances: 20
- (a) when a territorial authority transfers the role of providing water services to a water organisation, the territorial authority and the water organisation:
  - (b) when a water organisation transfers the role of providing water services to another water organisation, the 2 water organisations: 25
  - (c) when a water organisation transfers the role of providing water services to a territorial authority, the water organisation and the territorial authority.
- (2) This section, and the cross-heading above it, is repealed on the date that is 10 ~~5~~ years after the date on which this section comes into force. 30

## Part 5 Amendments to other legislation

### Subpart 1—Amendments to civil defence legislation

#### *Civil Defence Emergency Management Act 2002*

- 215 Principal Act** 5
- Section 216** amends the Civil Defence Emergency Management Act 2002.
- 216 Section 115A amended (Permanent legislative authority for payment of certain expenses)**
- (1) In section 115A, replace “Watercare Services Limited” with “a water organisation” in each place. 10
- (2) In section 115A, insert as subsection (2):
- (2) In this section, **water organisation** has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**.

#### *National Civil Defence Emergency Management Plan Order 2015*

- 217 Principal order** 15
- Section 218** amends the National Civil Defence Emergency Management Plan Order 2015.
- 218 Schedule amended**
- (1) In the Schedule, Part 10 heading, replace “**Watercare Services Limited**” with “**water organisations**”. 20
- (2) In the Schedule, clause 159(1) and (4), replace “Watercare Services Limited” with “water organisations”.
- (3) In the Schedule, after clause 159, insert:
- 159A Definition of water organisation**
- In this Part, **water organisation** has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**. 25
- (4) In the Schedule, clause 160, replace “Watercare Services Limited” with “water organisations”.
- (5) In the Schedule, clause 161(8), replace “Watercare Services Limited” with “a water organisation”. 30
- (6) In the Schedule, heading to clause 162, replace “**Watercare Services Limited**” with “**water organisations**”.
- (7) In the Schedule, clause 162(b) and (c), replace “Watercare Services Limited” with “water organisations”.

- (8) In the Schedule, heading to clause 163, replace “**Watercare Services Limited**” with “**water organisations**”.
- (9) In the Schedule, clause 163(1), replace “Watercare Services Limited” with “water organisations”.

## Subpart 2—Amendments to Commerce Act 1986 5

### 219 Principal Act

This subpart amends the Commerce Act 1986.

#### **219A Section 2 amended (Interpretation)**

In section 2(1), definition of local authority, after “includes”, insert “(except for the purpose of **subpart 12 of Part 4 and Schedule 7**)”. 10

#### **220 Section 52B amended (Outline of Part)**

- (1) In section 52B(1), delete “of 3”.
- (2) In section 52B(2), after “The different types of regulation under this Part”, insert “(except for water services)”.
- (3) After section 52B(2), insert: 15
- (2A) The different types of regulation under this Part for water services are as follows:
- (a) information disclosure regulation (as referred to in subsection (2)(a));
  - (b) revenue threshold regulation, under which the Commission sets minimum or maximum revenue thresholds (or both) for 1 or more regulated suppliers (*see **Part 3 of Schedule 7***): 20
  - (c) quality regulation, under which the Commission sets a quality path for 1 or more regulated suppliers (*see **Part 4 of Schedule 7***):
  - (d) performance requirement regulation, under which the Commission sets performance requirements for 1 or more regulated suppliers (*see **Part 5 of Schedule 7***): 25
  - (e) price-quality regulation, under which the Commission sets a price-quality path for 1 or more regulated suppliers (*see **Part 6 of Schedule 7***).
- (4) In section 52B(3), replace “to 11” with “to **12**”.
- (5) After section 52B(3)(c), insert: 30
- (d) water services (**subpart 12 and Schedule 7**).

#### **221 Section 52C amended (Interpretation)**

- (1) In section 52C, definition of **consumer**, after “55A”, insert “, **subpart 12, and Schedule 7**”.
- (2) In section 52C, definition of **input methodology**, after “section 52T”, insert “(or **clause 27 of Schedule 7**)”. 35

- (3) In section 52C, definition of **regulated goods or services**, paragraph (a), after “52N”, insert “or **57J**”.
- (4) In section 52C, definition of **regulated goods or services**, paragraph (b), replace “11” with “**12**”.
- (5) In section 52C, replace the definition of **regulated supplier** with: 5  
**regulated supplier**—  
 (a) means a person to whom a section 52P determination applies in relation to particular goods or services; or  
 (b) in relation to water services, has the meaning set out in **clause 2(1) of Schedule 7** 10
- (6) In section 52C, insert in its appropriate alphabetical order:  
**water services** means any of the following (as defined in **section 57AA(1)**):  
 (a) water supply services:  
 (b) wastewater services:  
 (c) stormwater services 15
- 222 Section 52F amended (Effect of goods or services being subject to regulation)**  
 After section 52F(1)(b), insert:  
 (c) every input methodology relating to the supply of water services that is not specified in a section 52P determination (*see* **clause 26(1)(b) of Schedule 7**) and that applies to the regulated supplier. 20
- 223 Section 52P amended (Determinations by Commission under this section)**  
 (1) After section 52P(2)(c), insert:  
 (d) in the case of regulation being imposed on water services under **subpart 12**, in accordance with **section 57L**. 25
- (2) After section 52P(8), insert:  
 (8A) *See* **sections 57L to 57O and Schedule 7**, which provide for additional matters relating to determinations under this section that specify how regulation applies to suppliers of water services.
- 224 Section 53ZG amended (Power to exempt disclosure of commercially sensitive information)** 30  
 In section 53ZG(1), after “or customised price-quality regulation”, insert “, or revenue threshold regulation, quality regulation, performance requirement regulation, or price-quality regulation under **subpart 12**”.
- 225 New subpart 12 of Part 4 inserted** 35  
 After section 56N, insert:

## Subpart 12—Water services

**57 Overview of subpart**

- (1) This subpart provides that—
- (a) the following types of regulation apply to certain local government suppliers of water supply services and wastewater services: 5
    - (i) information disclosure regulation:
    - (ii) revenue threshold regulation:
  - (b) those types of regulation may also be imposed on the following in accordance with the process set out in **subsection (2)**: 10
    - (i) 1 or more other suppliers of water supply services or wastewater services: 10
    - (ii) 1 or more suppliers of stormwater services:
  - (c) the following types of regulation may be imposed on 1 or more suppliers of 1 or more water services in accordance with the process set out in **subsection (2)**: 15
    - (i) quality regulation:
    - (ii) performance requirement regulation:
    - (iii) price-quality regulation.
- (2) The process for imposing regulation on 1 or more suppliers in respect of 1 or more water services involves the following steps: 20
- Order in Council imposing regulation*
- (a) the Commission may make a recommendation to the Minister under **section 57E** (but is not required to hold an inquiry under sections 52H to 52K):
  - (b) the Minister considers the Commission’s recommendation under **section 57H**: 25
  - (c) if the Minister decides to recommend regulation, an Order in Council may be made under **section 57J** that makes those suppliers subject to regulation and identifies the type or types of regulation that apply: 30
- Determination*
- (d) the Commission makes a section 52P determination specifying how the applicable type or types of regulation apply to a supplier.
- (3) This section is intended only as a guide to the general scheme and effect of this subpart.
- 57AA Interpretation for this subpart** 35
- (1) In this subpart and in **Schedule 7**, unless the context otherwise requires,—

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

**stormwater service**—

(a) means the collection, treatment, drainage, ~~reuse~~, or discharge of stormwater in an urban area; and 5

(b) ~~includes a service, when linked to a stormwater network, relating to—~~

(i) ~~an overland flow path; or~~

(ii) ~~green water services infrastructure; or~~

(iii) ~~a watercourse; but~~

(b) includes a service declared to be a stormwater service by an Order in Council made under **section 57AB**; but 10

(ba) does not include—

(i) a service declared not to be a stormwater service by an Order in Council made under **section 57AB**;

(ii) a service relating to a transport corridor 15

(e) ~~does not include a service relating to a transport stormwater system or transport corridor~~

**Treaty settlement obligations** has the meaning given in **section 4** of the Local Government (Water Services) Act **2024** 20

**water supply service**— 20

(a) ~~means the abstraction, storage, treatment, or transmission of drinking water for supply to consumers or a drinking water supplier; and~~

(b) ~~includes a service that is provided at or through any of the following:~~

(i) ~~a point of supply;~~

(ii) ~~an end-point treatment device;~~ 25

(iii) ~~a backflow prevention device;~~

(e) ~~includes a service, when linked to a water supply network, relating to catchments (including land, fencing, and planting) and upstream storage;~~

(d) ~~includes firefighting water supplies as defined in section 6 of the Fire and Emergency New Zealand Act 2017 (but only if the supply is part of a drinking water supply);~~ 30

(e) ~~includes reticulated water supply, waterworks, and fixed bulk water supply systems~~

**wastewater service**—

(a) means the collection, treatment ~~(including of biosolids)~~, storage, transmission ~~through reticulation~~, reuse, metering, or discharge of wastewater from consumers; and 35

(b) ~~includes a service, when linked to a wastewater network, relating to—~~

- (i) ~~outfalls, land disposal areas, planting, or wetlands; and~~  
(ii) ~~the customer connection (including laterals connecting from the customer's property to the network).~~
- (b) includes a service declared to be a wastewater service by an Order in Council made under **section 57AB**; but 5
- (c) does not include a service declared not to be a wastewater service by an Order in Council made under **section 57AB**
- water supply service—**
- (a) means the abstraction, storage, treatment, transmission, or metering of water for supply to consumers if any of the water supplied is intended to be used as drinking water; and 10
- (b) includes a service declared to be a water supply service by an Order in Council made under **section 57AB**; but
- (c) does not include a service declared not to be a water supply service by an Order in Council made under **section 57AB**. 15
- (2) In ~~**subsection (1), green water services infrastructure, overland flow path, drinking water and urban area, and watercourse**~~ have the same meanings as have the meanings given in **section 4** of the Local Government (Water Services) Act **2024**.
- (3) In this subpart and **Schedule 7**, serviceability charges under **section 62** of the Local Government (Water Services) Act **2024** must be treated as prices for supplying water supply services or wastewater services, as the case may be. 20
- 57AB Order in Council declaring water services**
- (1) The Governor-General may, on the recommendation of the Minister, make an Order in Council declaring— 25
- (a) 1 or more services that involve water to be a stormwater service, a wastewater service, or a water supply service; or
- (b) 1 or more services not to be a stormwater service, a wastewater service, or a water supply service.
- (2) Before recommending that an Order in Council be made, the Minister must be satisfied that— 30
- (a) the Commission has made a recommendation to the same effect; and
- (b) the Commission has consulted with interested parties.
- (3) Before making a recommendation under **subsection (2)(a)**, the Commission must assess the benefits, in meeting the purpose of this Part, of the proposed declaration against the costs of the proposed declaration. 35
- (4) An order made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

*Water services regulated under this Part***57A Water services declared to be regulated**

The following are regulated under this Part:

- (a) water supply services:
- (b) wastewater services: 5
- (c) stormwater services declared to be regulated by Order in Council made under **section 57J**.

**57B Water supply and wastewater services**

- (1) Water supply services and wastewater services are subject to both of the following types of regulation under this Part if the services are supplied by a person that is, in respect of that service, a decision-making local government water service supplier: 10
  - (a) information disclosure regulation (*see* subpart 4 and **Part 2 of Schedule 7**):
  - (b) revenue threshold regulation (*see* **Part 3 of Schedule 7**). 15
- (2) A **decision-making local government water service supplier**, in respect of a service, is a local government water service supplier that makes decisions about either or both of the following:
  - (a) capital and operating expenditure on the service:
  - (b) the level of charges or revenue recovery for the service. 20
- (3) In addition, water supply services and wastewater services are subject to any or all of the following types of regulation under this Part if that regulation is imposed by an Order in Council made under **section 57J**:
  - (a) information disclosure regulation (*see* subpart 4 and **Part 2 of Schedule 7**) if **subsection (1)(a)** does not already apply to the service: 25
  - (b) revenue threshold regulation (*see* **Part 3 of Schedule 7**) if **subsection (1)(b)** does not already apply to the service:
  - (c) quality regulation (*see* **Part 4 of Schedule 7**):
  - (d) performance requirement regulation (*see* **Part 5 of Schedule 7**):
  - (e) price-quality regulation (*see* **Part 6 of Schedule 7**). 30

**57C Stormwater services**

Stormwater services are subject to 1 or more of the following types of regulation under this Part if that regulation is imposed by an Order in Council made under **section 57J**:

- (a) information disclosure regulation (*see* subpart 4 and **Part 2 of Schedule 7**): 35
- (b) revenue threshold regulation (*see* **Part 3 of Schedule 7**):

(c)	quality regulation ( <i>see</i> <b>Part 4 of Schedule 7</b> ):	
(d)	performance requirement regulation ( <i>see</i> <b>Part 5 of Schedule 7</b> ):	
(e)	price-quality regulation ( <i>see</i> <b>Part 6 of Schedule 7</b> ).	
<b>57D</b>	<b>Watercare Services Limited, and any subsidiary of Watercare Services Limited, subject to price-quality regulation</b>	<b>5</b>
	Price-quality regulation applies to Watercare Services Limited, and any subsidiary of Watercare Services Limited, in respect of water supply services and wastewater services.	
	<i>Commission may recommend further regulation <u>or deregulation</u></i>	
<b>57E</b>	<b>Commission may recommend further regulation <u>or deregulation</u></b>	<b>10</b>
(1)	The Commission may <u>recommend to the Minister that</u> <del>make a recommendation to the Minister on whether</del> regulation should be imposed (or removed) as follows in respect of 1 or more suppliers:	
(a)	water supply services, wastewater services, or both should (or should no longer) be subject to 1 or more of the following types of regulation:	<b>15</b>
(i)	information disclosure regulation (but <i>see</i> <b>subsection (2)</b> ):	
(ii)	revenue threshold regulation (but <i>see</i> <b>subsection (2)</b> ):	
(iii)	quality regulation:	
(iv)	performance requirement regulation:	
(v)	price-quality regulation:	<b>20</b>
(b)	stormwater services should (or should no longer) be subject to 1 or more of the following types of regulation:	
(i)	information disclosure regulation:	
(ii)	revenue threshold regulation:	
(iii)	quality regulation:	<b>25</b>
(iv)	performance requirement regulation:	
(v)	price-quality regulation.	
(2)	A recommendation for the purposes of <b>subsection (1)(a)(i) or (ii)</b> in respect of a water service must not apply to a person that is, in respect of that service, a regulated supplier to which <b>section 57B(1)</b> applies.	<b>30</b>
(3)	The Minister must publish the Commission's recommendation, and may do so in whatever way the Minister considers appropriate.	
(4)	A recommendation by the Commission is not a determination of the Commission.	

**57F Process for Commission's recommendation**

- (1) Before making a recommendation under **section 57E**, the Commission must—
- (a) consider the following matters:
    - (i) whether imposing (or removing suppliers from) the regulation would better promote the purpose of this Part: 5
    - (ii) the nature of the water services delivery structure (to the extent that the Commission considers relevant):
    - (iii) whether revenue threshold regulation applies to the relevant water services and, if so, the extent of regulated suppliers' performance against each revenue threshold that applies: 10
    - (iv) any other matters the Commission considers relevant; and
  - (b) consult interested parties (but *see* **section 57K**).
- (2) For the purposes of **subsection (1)(a)(ii)**, the nature of the water services delivery structure may include any of the following (to the extent that the Commission considers those matters are relevant): 15
- (a) the types of water services being supplied:
  - (b) the location of the suppliers:
  - (c) the size of the suppliers:
  - (d) the governance arrangements of the suppliers: 20
  - (e) the type of delivery model adopted under **subpart 1 of Part 2** of the **Local Government (Water Services) Act 2024**.
- (3) If the Commission recommends to the Minister that 1 or more suppliers be subject to 1 or more types of regulation, the recommendation must—
- (a) describe each supplier that is the subject of the recommendation; and 25
  - (b) describe the water services provided by the supplier that the Commission considers should be regulated; and
  - (c) specify the 1 or more types of regulation that the Commission considers the supplier should be subject to and when the relevant section 52P determinations should apply. 30
- (4) **Subsection (3)** applies with all necessary modifications to a recommendation that 1 or more suppliers should no longer be subject to 1 or more types of regulation.

**57G Inquiry not required**

For the purposes of this subpart, the Commission may act without holding an inquiry under sections 52H to 52K. 35

*Order in Council***57H Minister's consideration**

- (1) The Minister must consider any recommendation of the Commission made under **section 57E**.
- (2) As part of that consideration, the Minister—
- (a) must consult the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Local Government Act 2002; and
  - (b) may request further information or advice from the Commission.

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**57I Minister's decision and recommendation**

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- (1) After considering the Commission's recommendation in accordance with **section 57H**, the Minister must—
- (a) decide whether, in addition to the regulation referred to in **sections 57B(1) and 57D**, further regulation should be imposed (or removed from suppliers) under this subpart; and
  - (b) if so,—
    - (i) decide which type or types of regulation are to apply in relation to particular water services; and
    - (ii) decide which suppliers should (or should no longer) be subject to the regulation; and
    - (iii) make a recommendation to that effect.
- (2) The Minister may not decide that regulation should be imposed (or removed) under this subpart unless the Commission has considered and recommended that, but the Minister's decision may otherwise be the same as, or different from, the Commission's recommendation under **section 57E**.
- (3) If the Minister's decision is different from the Commission's recommendation, the Minister must set out the reasons for the decision and make the decision, with the reasons, publicly available.

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**57J Order in Council imposing regulation**

- (1) The Governor-General may, on the recommendation of the Minister made under **section 57I**, make an Order in Council imposing (or removing) regulation on 1 or more suppliers in respect of 1 or more water services.
- (2) The order must—
- (a) declare that 1 or more suppliers are regulated (or no longer regulated) in respect of 1 or more water services; and
  - (b) state which type or types of regulation the suppliers are (or are no longer) subject to in respect of those services.

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- (3) The order may identify the water services it relates to by reference to services—
- (a) supplied in specified regions, areas, or localities in New Zealand; or
  - (b) supplied in different quantities, qualities, grades, or classes; or
  - (c) supplied to or for the use of different persons or classes of persons; or
  - (d) described in any or all of **paragraphs (a) to (c)**.
- (4) **Subsection (3)** applies so that any part or element of services can be dealt with separately.
- (5) An order made under this section that imposes regulation must include an expiry date, which must be a date not later than 20 years after the date of its commencement.
- (6) An order made under this section may remove regulation only if the regulation has been imposed by an order made under this section.
- (7) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**57K Commission not required to consult on non-material amendment**

An Order in Council made under **section 57J** may be amended in a non-material way without prior consultation under **section 57F(1)(b)**.

*Determinations*

**57L Commission determination about how regulation applies**

- (1) The Commission must make a section 52P determination specifying how a type of regulation imposed by this subpart will apply,—
- (a) in the case of **section 57B(1)(a)** (information disclosure),—
    - (i) within 6 months after this section comes into force; or
    - (ii) before a date specified in a notice issued under **subsection (3)**:
  - (b) in the case of **sections 57B(3) and 57C**, as soon as practicable after an Order in Council is made under **section 57J**;
  - (c) in the case of **section 57D**, *see* the transitional provisions in **Part 6** of Schedule 1AA relating to the Watercare charter.
- (2) Despite section 52P, the Commission has a discretion to decide whether and, if so, when to make a section 52P determination specifying how revenue threshold regulation will apply.
- (3) The following applies for the purposes of **subsection (1)(a)(ii)**:
- (a) the Minister may, by notice in the *Gazette*, specify a date earlier or later than 6 months after this section comes into force if the Minister considers it to be in the public interest to do so;
  - (b) a copy of the notice must be made publicly available:

- (c) before issuing the notice, the Minister must consult the Commission on a draft of the notice.

**57M ~~Certain determinations may apply to suppliers only if declared by Order in Council~~**

- (1) ~~The Commission may make a section 52P determination specifying how—~~ 5
- (a) ~~quality regulation, performance requirement regulation, or price quality regulation imposed by this subpart will apply to 1 or more suppliers in respect of water supply services or wastewater services only if the suppliers are declared to be regulated in respect of the relevant service under **section 57J(2)(a)**;~~ 10
- (b) ~~a type of regulation imposed by this subpart will apply to 1 or more suppliers in respect of stormwater services only if the suppliers are declared to be regulated in respect of the service under **section 57J(2)(b)**.~~
- (2) ~~However, the Commission may, at any time, make a section 52P determination specifying how price quality regulation imposed by this subpart will apply to Waterecare Services Limited, and any subsidiary of Waterecare Services Limited, in respect of water supply services or wastewater services.~~ 15

**57M Section 52P determinations apply to each type of regulation imposed**

- (1) Section 52P applies under this subpart with necessary modifications with the effect that, for each type or types of regulation imposed under this subpart, the Commission must make a section 52P determination specifying how the relevant type of regulation applies to a supplier of the regulated service. 20
- (2) This section is subject to **section 57L**.

**57N Section 52P determinations without input methodologies**

- (1) The Commission may make a section 52P determination relating to information disclosure regulation or price-quality regulation without determining an input methodology. 25
- (2) However, **subsection (1)** applies only to the extent that the section 52P determination applies to a period before the relevant date (as defined in **clause 28 of Schedule 7**). 30

**Guidance note**

**Clause 28 of Schedule 7** provides for when the Commission must determine an input methodology.

**57O Additional matters relating to section 52P determinations**

- (1) In addition to the matters in section 52P(3), a section 52P determination made for the purposes of this subpart must— 35
- (a) specify the regulated suppliers to which it applies; and
- (b) specify the water services in respect of which it applies.

(2) For the purposes of **subsection (1)(a)**, the determination may relate to all regulated suppliers or to 1 or more regulated suppliers (for example, a determination relating to price-quality regulation may apply to a particular regulated supplier and set price-quality paths that are specific to that supplier).

(2A) For the purposes of **subsection (1)(b)**, the determination may relate to all water services or to 1 or more types or parts of a water service (for example, a determination relating to price-quality regulation may apply to a particular part of a service and set price-quality paths that are specific to that service).

(3) A section 52P determination relating only to price-quality regulation may last for more than 1 regulatory period and remains in force until it is revoked.

*Other functions of Commission in relation to water services*

**57P Water efficiency**

In performing or exercising its functions and powers under this subpart, the Commission may take into account the efficient use of water resources in relation to water services, including reuse, conservation, and demand management.

**57Q Commission must take into account duties owed by suppliers of water services**

The Commission must take into account the duties owed by suppliers of water services under other legislation, ~~instruments, or government policy statements, or instruments~~ or under Treaty settlement obligations (for example, under water quality standards and requirements to support and enable planning processes, growth, and housing and urban development) when applying this subpart in relation to water services.

**57R Commission's functions do not extend to regulating safety of drinking water**

The Commission's functions under this subpart do not extend to regulating the safety of drinking water (*see* section 11 of the **Water Services Authority—Taumata Arowai Act 2020**, which describes the role of the Water Services Authority—Taumata Arowai in that regard).

Compare: 2023 No 54 s 4(5)

*Additional matters*

**57S Commission may grant exemption to local authority**

(1) The Commission may make a determination that exempts a local authority from compliance with any provision or provisions of this subpart in respect of 1 or more water services if the Commission is satisfied that—

- (a) the costs of complying with the provision or provisions ~~significantly~~ outweigh the benefits; and

(b)	the extent of the exemption is not broader than is reasonably necessary to address the matters that gave rise to the exemption.	
(2)	The Commission may make the determination after receiving an application from a local authority or on its own initiative.	
(3)	The Commission may grant the exemption on the terms and conditions (if any) that it thinks fit.	5
(4)	The Commission’s reasons for making the determination (including why the exemption is appropriate) must be published together with the determination.	
(5)	A determination made under this section may continue in force for not more than 20 years (and at the close of the date that is 20 years after the determination first comes into force, the determination must be treated as having been revoked unless it is sooner revoked).	10
(6)	A determination made under this section is secondary legislation ( <i>see</i> Part 3 of the Legislation Act 2019 for publication requirements).	
<b>57T</b>	<b>Additional matters relating to regulation of water services</b>	15
	The provisions set out in <b>Schedule 7</b> have effect according to their terms.	

**226 New Part 4A inserted**

After Part 4, insert:

<b>Part 4A</b>		
<b>Consumer protection in relation to water services</b>		20
Subpart 1—Overview, purpose, interpretation, and application of this Part		
<b>57TA</b>	<b>Overview of this Part</b>	
(1)	In this Part,—	
(a)	this subpart contains preliminary provisions in relation to water services and water services suppliers:	25
(b)	<b>subpart 2</b> enables the Commission, in relation to water services, to include requirements relating to consumer protection in any information disclosure requirements that apply under Part 4:	
(c)	<b>subpart 3</b> makes provision for other consumer protection measures in relation to water services, including—	30
(i)	regulations relating to consumer protection (including regulations about consumer complaints and dispute resolution); and	
(ii)	service quality codes.	

- (2) This section is intended only as a guide to the general scheme and effect of this Part.

Compare: 2023 No 54 s 57

### 57U Purpose of this Part

The purpose of this Part is to provide for—

- (a) consumer protection by water services suppliers to which this Part applies; and
- (b) improvements in the quality of service provided to consumers by those suppliers, to reflect consumer demands.

Compare: 2023 No 54 s 58

### 57V Interpretation of this Part

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

**Commission service quality code** means a code made by the Commission under **section 57ZC**

**complaint** means an expression of dissatisfaction

**service** or **water services** means any of the water services to which this Part applies

**supplier** or **water services supplier** means a supplier that is a regulated supplier in relation to water services to which this Part applies

**Water Services Authority—Taumata Arowai** means the Water Services Authority—Taumata Arowai established by section 8 of the **Water Services Authority—Taumata Arowai Act 2020**

- (2) Any term or expression that is defined in Part 4 and used, but not defined, in this Part has the same meaning as in Part 4.

Compare: 2023 No 54 s 59

### 57W Application of this Part

This Part applies to—

- (a) water services to which information disclosure regulation applies; and
- (b) regulated suppliers of those services.

Subpart 2—Information disclosure requirements relating to protecting  
~~protection of~~ consumers of water services

### 57X Information disclosure requirements relating to consumer protection

- (1) The Commission may include requirements relating to protecting ~~the protection of~~ consumers of water services in any information disclosure regulation that applies under **subpart 12** of Part 4 (*see sections 57B and 57C*).

(2)	Those requirements may require the disclosure of information about consumers' experience of the services provided by their supplier, including—	
(a)	the number of complaints received by the supplier:	
(b)	the nature of those complaints:	
(c)	when each complaint was received and how long it took to resolve it:	5
(d)	how the complaint was resolved.	
(3)	<u>This section does not limit the other powers of the Commission under this or any other Act.</u>	
	Subpart 3—Other measures relating to <del>protecting</del> protection of consumers of water services	10
	<i>Regulations</i>	
<b>57Y</b>	<b>Regulations relating to <del>protecting</del> protection of consumers of water services</b>	
(1)	The Governor-General may, on the recommendation of the Minister, make regulations relating to <del>protecting</del> the protection of consumers of water services, including regulations for all or any of the following:	15
(a)	prescribing the information that water services suppliers must provide to consumers, including how a consumer may make a complaint to a supplier:	
(b)	prescribing requirements relating to consumer complaints that water services suppliers must meet, including—	20
(i)	requirements for investigating consumer complaints:	
(ii)	the time frame for investigating consumer complaints:	
(iii)	notifying decisions on consumer complaints (including any action that was taken to resolve the matters that gave rise to the complaint):	25
(iv)	records that suppliers must keep about consumer complaints:	
(c)	prescribing requirements for annual reporting about consumer complaints to the Commission by water services suppliers, including the number of complaints that have been received and the outcome of complaints, including any action taken:	30
(d)	prescribing requirements relating to how, and in what manner, water services suppliers must provide access to an external consumer dispute resolution process, for example, by setting up a regulated scheme, or requiring suppliers to appoint their own scheme subject to any criteria set in the regulations:	35
(e)	prescribing those breaches of the regulations that would constitute an offence under this Act:	

- (f) prescribing the maximum fine for each offence prescribed under **paragraph (e)**, which must not,—
- (i) in the case of an individual, exceed \$10,000; and
  - (ii) in any other case, exceed \$200,000:
- (g) providing for any other matters relating to consumer protection in respect of water services that the Minister thinks necessary for the purpose of this Part. 5
- (2) The Minister may make a recommendation on the Minister’s own initiative or following a recommendation from the Commission.
- (3) The Commission may make a recommendation to the Minister only after— 10
- (a) considering—
    - (i) whether consumer interests are adequately protected, and the purpose of this Part is adequately promoted, or would be better protected or promoted by the proposed regulations; and
    - (ia) whether the proposed regulations would unduly duplicate other requirements that apply to water services and water services suppliers; and 15
    - (ii) any other matters that the Commission considers relevant; and
  - (b) consulting the Water Services Authority—Taumata Arowai and other interested persons. 20
- (4) The Minister may make a recommendation only—
- (a) if the Minister is satisfied that the proposed regulations would better achieve the purpose of this Part; and
  - (b) if the Minister is satisfied that the proposed regulations would not unduly duplicate other requirements that apply to water services and suppliers; and 25
  - (c) after consulting the Minister responsible for the Water Services Authority—Taumata Arowai, the Minister responsible for the administration of the Water Services Act 2021, and the Commission; and
  - (d) in the case of regulations relating to external dispute resolution, if the Minister is satisfied that consumers of water services do not have, and are unlikely to have, adequate dispute resolution procedures unless the proposed regulations are made. 30
- (5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 35

*Service quality codes***57Z Purpose of service quality code**

The purpose of a service quality code is to improve service quality to reflect the demands of consumers of water services.

Compare: 2001 No 103 s 233

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**57ZA Commission may issue guidelines to industry about service quality codes**

The Commission may issue guidelines to the water services industry on any matters relating to service quality codes, including advice on what matters are appropriately dealt with by service quality codes.

Compare: 2001 No 103 s 234

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**57ZB Commission review of industry service quality codes**

- (1) The Commission may, at any time, review an industry service quality code.
- (2) The Commission may require the following persons to provide the Commission with any information relevant to the industry service quality code under review:
  - (a) the Water Services Authority—Taumata Arowai:
  - (b) suppliers to whom the code applies.
- (3) After each review, the Commission must—
  - (a) advise the Water Services Authority—Taumata Arowai, the dispute resolution provider for the code (if any), and the Minister of any recommendations for improving the code and of any recommendations for creating a new code; and
  - (b) advise the Minister of whether any previous recommendations have been implemented; and
  - (c) advise the Minister of whether, in the Commission's opinion,—
    - (i) the code fails to achieve the purpose of this Part; or
    - (ii) a Commission service quality code would better achieve the purpose of this Part.

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Compare: 2001 No 103 s 234

**57ZC Commission may make Commission service quality code**

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- (1) The Commission may make a Commission service quality code in relation to the provision of 1 or more types of service to which this Part applies.
- (2) The Commission may make that code on the Commission's own initiative or following a recommendation from the Minister.
- (3) The Commission may make a code, and the Minister may recommend a code, under this section only if—

35

- (a) no industry service quality code has been made in relation to the service; or
- (b) an industry service quality code has been made in relation to the service, but in the Commission’s or the Minister’s opinion—
  - (i) the code fails to achieve the purpose of this Part; or 5
  - (ii) a Commission service quality code would better achieve the purpose of this Part.
- (4) If the Commission intends to make a Commission service quality code, the Commission must, before making the code, provide a report to the Minister containing the reasons for making the code and specifying the provision of this section that applies. 10
- (5) A Commission service quality code is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).  
Compare: 2001 No 103 s 236; 2023 No 54 s 66

#### **57ZD Contents of Commission’s service quality code** 15

- (1) A Commission service quality code must—
  - (a) specify which services it applies to; and
  - (b) specify which suppliers it applies to; and
  - (c) promote the purpose of this Part.
- (2) The code may (without limitation) do 1 or more of the following: 20
  - (a) specify a consumer’s rights when they make a complaint to a supplier:
  - (b) specify the type and frequency of communications that a supplier must have with consumers about—
    - (i) restrictions or interruptions of water services; and
    - (ii) the time taken to respond to water services’ restrictions or interruptions and faults: 25
  - (c) contain rules about the transparency of billing practices, and the way in which suppliers must respond to account queries ~~must be responded to~~:
  - (d) set out the types of redress available to consumers when the quality of service does not meet appropriate standards (for example, in relation to pressure flow rates): 30
  - (e) specify conditions for providing ~~the provision of~~ services to consumers who are experiencing hardship or who have other vulnerabilities (for example, the obligations of suppliers when responding to non-payment by consumers): 35
  - (f) specify requirements for consulting consumers:
  - (g) provide for any other matter that the Commission considers appropriate.

Compare: 2023 No 54 s 67

**57ZE Suppliers must comply with Commission service quality code**

Suppliers to which a Commission service quality code applies must comply with the code.

Compare: 2023 No 54 s 68

**57ZF Process for making or amending Commission service quality code**

(1) ~~To in order to make a Commission service quality code, the Commission must—~~

(a) give public notice of the process that it will follow ~~will be followed~~ to make the code; and

(b) consult the Water Services Authority—Taumata Arowai and other interested persons; and

(c) give public notice of a draft code.

(2) A person is entitled to make a submission to the Commission not later than 30 working days after the date on which the Commission gives public notice of the draft code ~~is given~~.

(3) The Commission must—

(a) take reasonable steps to identify classes of vulnerable consumers; and

(b) consider the impact of the provision of services on vulnerable consumers and take the interests of those persons into account when making the code.

(4) The Commission may make the code only if ~~the Commission is~~ satisfied that the draft code meets all the requirements set out in this subpart.

(5) The Commission may amend or revoke and replace the code if the Commission considers that the code should be changed to better promote the purpose of this Part.

(6) The same procedure that applies to making a code in **subsections (1) to (4)** must be followed to make an amendment or a revocation and replacement, with any necessary modifications, except that **subsections (1) to (4)** do not apply if the Commission is satisfied that an amendment is non-material.

Compare: 2023 No 54 s 69

*Compliance***57ZG Commission must monitor compliance**

(1) The Commission—

(a) must monitor compliance by suppliers with any requirements set out in regulations under this Part or in a Commission service quality code; and

(b) in doing so, may have regard to the scale, complexity, and risk profile of a supplier or the type of water services being provided by the supplier.

- (2) For the purpose of monitoring compliance with any of those requirements, the Commission may, in addition to exercising its powers under section 98, issue a written notice to a supplier requiring it to provide any or all of the following:
- (a) a written statement of whether the supplier has complied with the requirement: 5
  - (b) a report on the written statement that is signed by an auditor in accordance with any form specified by the Commission:
  - (c) sufficient information to enable the Commission to properly determine whether the requirement has been complied with:
  - (d) a certificate in the form specified by the Commission, and signed by at least 1 board member of the supplier or, if there is no board, the person who operates the supplier, confirming the truth and accuracy of any information provided under this section. 10

Compare: 2023 No 54 s 79

~~**57ZH Commission may give direction to comply with code**~~ 15

~~The Commission may direct a supplier to comply with a Commission service quality code.~~

~~Compare: 2023 No 54 s 80~~

**57ZI When court may make pecuniary penalty order**

- (1) The court may, on the application of the Commission, order a person to pay to the Crown a pecuniary penalty if the court is satisfied that the person has— 20
- (a) contravened a Commission service quality code; or
  - (b) attempted to contravene, or been involved in a contravention of, a Commission service quality code.

- (2) A supplier may not be liable to both a pecuniary penalty under this section and a fine under **section 57ZN** in respect of the same conduct. 25

Compare: 2023 No 54 s 83

**57ZJ Maximum amount of pecuniary penalty**

The maximum amount of a pecuniary penalty under **section 57ZI** is \$300,000 for— 30

- (a) a contravention of the service quality code under **section 57ZI(a)**;
- (b) an attempted contravention of the service quality code under **section 57ZI(b)**;
- (c) involvement in the contravention of the service quality code under **section 57ZI(b)**. 35

Compare: 2023 No 54 s 84

**57ZK Court may make compensatory orders for contravention of Commission service quality code**

- (1) If the court orders a person to pay a pecuniary penalty order under **section 57ZI** in respect of a a contravention of a Commission service quality code, the court may, in addition, order the person to pay compensation to any person who has suffered, or is likely to suffer, loss or damage as a result of the contravention (an **aggrieved person**). 5
- (2) An application for an order under this section may be made by the Commission or any aggrieved person.
- (3) The court may make a compensatory order whether or not the aggrieved person is a party to the proceeding. 10

Compare: 2023 No 54 s 87

**57ZL Court may grant injunctions for contravention of Commission service quality code**

The court may, on application by the Commission or any other person, grant an injunction— 15

- (a) restraining a person from engaging in conduct that constitutes or would constitute a contravention, an attempted contravention, or involvement in a contravention of a Commission service quality code; or
- (b) requiring a person to do a thing if— 20
- (i) that person has refused or failed, is refusing or failing, or is proposing to refuse or fail, to do that thing; and
- (ii) the refusal or failure was, is, or would be a contravention of an information disclosure requirement or a Commission service quality code. 25

Compare: 2023 No 54 s 89

**57ZM Order requiring regulations to be complied with**

- (1) The court may, on application by the Commission, order a supplier to comply with any regulations made under this subpart that apply to the supplier.
- (2) An order under this section must specify the date by which, or period within which, the supplier must comply with the requirement. 30

Compare: 2023 No 54 s 92

**57ZN Offence relating to Commission service quality codes**

- (1) A person commits an offence if—
- (a) ~~the person intentionally contravenes a direction given under **section 57ZH**; or~~ 35

- (b) the person, knowing that particular services are subject to a Commission service quality code, intentionally contravenes a code requirement in respect of the services; or
- (c) the person is subject to an order under **section 57ZM** and fails to comply with the order. 5
- (2) A person who commits an offence under **subsection (1)** is liable on conviction to a fine not exceeding \$200,000, in the case of an individual, or \$1 million, in any other case.
- Compare: 2023 No 54 s 102
- Additional remedies in relation to failure to comply with Commission service quality code* 10
- 57ZO Overview of sections 57ZP to 57ZR**
- Sections 57ZP to 57ZR** set out orders that the court may make ~~be made~~ for breaches of a Commission service quality code.
- Compare: 2023 No 54 s 105 15
- 57ZP Order to disclose information**
- (1) The court may make either or both of the following orders if the court is satisfied, on the application of the Commission, that a person has failed without reasonable excuse to comply with a Commission service quality code:
- (a) an order requiring that person, or any other person involved in the failure to comply, to disclose to the public, or to a particular person or class of persons, the information or class of information that is specified in the order, being information that is in the possession of the person to whom the order is directed or to which that person has access: 20
- (b) an order requiring that person, or any other person involved in the failure to comply, to publish corrective statements the terms of which are specified in, or are to be determined in accordance with, the order. 25
- (2) The information must be disclosed or published—
- (a) in the manner and at the times that are specified in the order; and
- (b) at the person's own expense. 30
- (3) The court may hear and determine an application under **subsection (1)** in conjunction with any other proceedings under this Part.
- Compare: 2023 No 54 s 106
- 57ZQ General order for failure to comply with Commission service quality code**
- (1) The court may make 1 or more of the following orders if the court is satisfied, on the application of the Commission, that a person (**person X**) has failed without reasonable excuse to comply with a Commission service quality code: 35

(a)	an order directing person X to refund money or return property to any other person:	
(b)	an order directing person X to pay to any other person the amount of any loss or damage caused to that other person by the conduct of person X:	
(c)	an order directing person X, at person X's own expense, to supply a service to any other person:	5
(d)	an order declaring all or part of a contract made between person X and any other person, or a collateral arrangement relating to such a contract,—	
	(i) to be void; and	10
	(ii) if the court thinks fit, to have been void at all times on and after a date specified in the order, which may be before the date on which the order is made:	
(e)	an order in respect of a contract made between person X and any other person, or a collateral arrangement relating to such a contract,—	15
	(i) varying the contract or the arrangement in the manner specified in the order; and	
	(ii) if the court thinks fit, declaring the varied contract or arrangement to have had effect on and after a date specified in the order, which may be before the date on which the order is made.	20
(2)	The court may hear and determine an application under <b>subsection (1)</b> in conjunction with any other proceedings under this Part.	
	Compare: 2023 No 54 s 107	
<b>57ZR Other order for failure to comply with Commission service quality code</b>		
(1)	The court may, if the court is satisfied, on the application of the Commission or a consumer, that a person has failed without reasonable excuse to comply with a Commission service quality code, make an order directing the person, at the person's own expense, to supply a service to a consumer.	25
(2)	The court may hear and determine an application under <b>subsection (1)</b> in conjunction with any other proceedings under this Part.	30
	Compare: 2023 No 54 s 108	
<b>57ZS Appeals and remedies</b>		
(1)	<u>Sections</u> <del>The provisions of sections</del> 93 to 97 apply in respect of proceedings under this subpart.	
(2)	For the purposes of this Act, the remedies set out in <b>sections 57ZP to 57ZR</b> are civil liability remedies.	35
	Compare: 2023 No 54 s 109	

**57ZT Application of Part 6 undertakings and injunction provisions**

The following provisions of this Act apply with any necessary modifications in respect of a contravention of any regulations made under this Part or a Commission service quality code:

- (a) section 74A (Commission may accept undertakings):
- (b) section 74B (matters included in undertakings):
- (c) section 74C (enforcement of undertakings):
- (d) sections 88 to 90 (injunctions generally).

Compare: 2023 No 54 s 136

*Other provisions***57ZU Commission must take into account duties owed by suppliers of water services**

The Commission must take into account the duties owed by suppliers of water services under other legislation, ~~instruments, or government policy statements,~~ or instruments or under Treaty settlement obligations (for example, under water quality standards and requirements to support and enable planning processes, growth, and housing and urban development) when applying this Part in relation to water services.

**57ZV Commission's functions do not extend to regulating safety of drinking water**

The Commission's functions under this Part do not extend to regulating the safety of drinking water (*see* section 11 of the ~~**Water Services Authority—Taumata Arowai Act 2020**~~, which describes the role of the Water Services Authority—Taumata Arowai in that regard).

Compare: 2023 No 54 s 4(5)

**57ZW Levies**

- (1) Regulations made under section 53ZE may provide for levies to recover the costs of performing the Commission's functions, powers, and duties under this Part, and of collecting the levy money.
- (2) In that case, section 53ZE applies in full as if those costs related to Part 4.

**226A Section 75 amended (Jurisdiction of High Court)**

After section 75(1)(c), insert:

- (ca) in the case of contraventions relating to **Part 4A**, proceedings under **sections 57ZI, 57ZK, 57ZL, 57ZP, 57ZQ, and 57ZR:**

**226B Section 76 amended (Jurisdiction of District Court)**

In section 76, replace “sections 86B” with “sections **57Y(1)(e), 57ZN, 86B**”.

- 227 Section 87 amended (Pecuniary penalty for contravening price-quality requirements)**
- (1) In the heading to section 87, after “**price-quality**”, insert “, **quality, or performance**”.
- (2) In section 87(1)(a), replace “price-quality requirement” with “price-quality or quality or performance requirement”.
- (3) Replace section 87(2) with:
- (2) In subsection (1) and sections 87A to 87C, a reference to **contravening a price-quality, quality, or performance requirement**—
- (a) refers to a requirement imposed by a determination made under section 52P in relation to goods or services that are subject to any of the following:
- (i) default/customised price-quality regulation imposed under Part 4:
- (ii) individual price-quality regulation imposed under Part 4:
- (iii) quality regulation imposed under **subpart 12** of Part 4:
- (iv) performance requirement regulation imposed under **subpart 12** of Part 4:
- (v) price-quality regulation imposed under **subpart 12** of Part 4; and
- (b) means 1 or more of the following:
- (i) failing to comply with the requirements for prices, whether by charging a price for the goods or services that is higher than the maximum price permitted or is lower than the minimum price required, or by receiving more or less revenue than is permitted or required, or in any other way:
- (ii) refusing or failing to comply with any quality standards, or any incentives to maintain or improve quality of supply, required under the price-quality or quality regulation:
- (iii) refusing or failing to comply with any performance requirements set out in a section 52P determination relating to price-quality, quality, or performance requirements regulation.
- (4) After section 87(2), insert:
- (2A) In this section and sections 87A to 87C, a reference to **price-quality, quality, or performance requirement regulation** means any type of regulation referred to in **subsection (2)(a)**.
- 228 Section 87A amended (Compensation for contravention of price-quality requirement)**
- (1) In the heading to section 87A, after “**price-quality**”, insert “, **quality, or performance**”.

- (2) In section 87A(1), replace “price-quality requirement” with “price-quality, quality, or performance requirement”.

**229 Section 87B amended (Offence relating to price-quality regulation)**

- (1) In the heading to section 87B, after “**price-quality**”, insert “, **quality, or performance requirement**”. 5

- (2) Replace section 87B(1)(a) with:

- (a) the person, knowing that particular goods or services are subject to price-quality, quality, or performance requirement regulation, intentionally contravenes a price-quality, quality, or performance requirement in respect of the goods or services; or 10

**230 Section 87C amended (Injunction and other orders relating to price-quality regulation)**

- (1) In the heading to section 87C, after “**price-quality**”, insert “, **quality, or performance requirement**”. 15

- (2) Replace section 87C(1) with:

- (1) If the court is satisfied that goods or services that are subject to price-quality, quality, or performance requirement regulation are being supplied, or are likely to be supplied, in contravention of any price-quality, quality, or performance requirement applying with respect to those goods or services, the court may do either or both of the following: 20

- (a) grant an injunction restraining any supplier of those goods or services from supplying them in contravention of the price-quality, quality, or performance requirement: 25
- (b) make an order requiring the supplier to supply the goods or services in accordance with the price-quality, quality, or performance requirement applying to them.

**231 Section 91 amended (Appeals in relation to determinations by Commission)**

After section 91(1)(a)(ii), insert:

- (iii) how revenue threshold regulation applies to regulated suppliers under **Part 3 of Schedule 7**; or 30
- (iv) the quality path that applies to regulated suppliers under **Part 4 of Schedule 7**; or
- (v) a performance requirement that applies to regulated suppliers under **Part 5 of Schedule 7**: 35

**232 Section 103 amended (Offences)**

In section 103(1)(a), replace “sections 53B(1)(c), 53N, 53ZD, and 98” with “section 53B(1)(c), 53N, 53ZD, **57ZG(2)**, or 98 or ~~clause 8(2) and (3), 34, or 33 33(2) or (4) of Schedule 7~~”.

**233 Schedule 1AA amended**

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In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 5** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

**234 New Schedule 7 inserted**

After Schedule 6, insert the **Schedule 7** set out in **Schedule 6** of this Act.

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Subpart 2A—Amendments to Goods and Services Tax Act 1985**234A Principal Act**

**Sections 234C to 234G** amend the Goods and Services Tax Act 1985.

**234B Meaning of taxable period**

In this subpart, **taxable period** has the meaning set out in section 2(1) of the Goods and Services Tax Act 1985.

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**234C Section 2 amended (Interpretation)**

- (1) In section 2(1), insert in their appropriate alphabetical order:

**water organisation** has the meaning set out in **section 4** of the Local Government (Water Services) Act **2024**

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**water services** has the meaning set out in **section 4** of the Local Government (Water Services) Act **2024**

- (2) **Subsection (1)** applies to each taxable period that starts on or after the date on which this section comes into force.

**234D Section 5 amended (Meaning of term supply)**

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- (1) In section 5(7B), after “a local authority”, insert “or a water organisation”.

- (2) In section 5(7B), after “the local authority”, insert “or the water organisation”.

- (3) After section 5(7B)(b), insert:

(c) **a development contribution under the Local Government (Water Services) Act 2024.**

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- (4) In section 5(7C), after “a local authority”, insert “or a water organisation”.

- (5) In section 5(7C), after “the local authority”, insert “or the water organisation”.

- (6) After section 5(7C)(b), insert:

(c) a development contribution under the Local Government (Water Services) Act 2024.

(7) Subsections (1) to (6) apply to each taxable period that starts on or after the date on which this section comes into force.

**234E Section 6 amended (Meaning of term taxable activity) 5**

(1) Replace section 6(1)(b) with:

(b) without limiting the generality of paragraph (a), the activities of any—

- (i) local authority; or
- (ii) public authority; or
- (iii) public purpose Crown-controlled company; or
- (iv) water organisation under the Local Government (Water Services) Act 2024.

(2) Subsection (1) applies to each taxable period that starts on or after the date on which this section comes into force.

**234F Section 9 amended (Time of supply) 15**

(1) In section 9(8), after “to which section 5(7)(a) applies,”, insert “or if a water organisation supplies water services.”

(2) Subsection (1) applies to each taxable period that starts on or after the date on which this section comes into force.

**234G Section 11B amended (Zero-rating of some supplies by territorial authorities, some supplies involving contributions to local authorities) 20**

(1) In the heading to section 11B, after “territorial authorities”, insert “or water organisations”.

(2) In the heading to section 11B, after “local authorities”, insert “or water organisations”. 25

(3) In section 11B(1B), after “a local authority”, insert “or a water organisation”.

(4) In section 11B(1B), after “the local authority”, insert “or the water organisation”.

(5) In section 11B(1C), after “a local authority”, insert “or a water organisation”.

(6) In section 11B(1C), after “the local authority”, insert “or the water organisation”. 30

(7) Subsections (1) to (6) apply to each taxable period that starts on or after the date on which this section comes into force.

## Subpart 3—Amendments to Income Tax Act 2007

**235 Principal Act**

**Sections ~~235B to 236~~ and 237** amend the Income Tax Act 2007.

**235A Meaning of income year**

In this subpart, **income year** has the meaning set out in section YA 1 of the Income Tax Act 2007. 5

**235B Section CW 39 amended (Local authorities)**

(1) Replace section CW 39(4)(a)(i) with:

- (i) a council-controlled organisation linked by ownership or control to the local authority, other than a council-controlled organisation operating a hospital as a charitable activity on behalf of the local authority or a water organisation whose income is exempt under **section CW 55BC**; or 10

(2) In section CW 39, in the list of defined terms, after “trustee”, insert “, water organisation”. 15

(3) **Subsections (1) and (2)** apply for the 2025–26 and later income years.

**236 New section CW 55BC inserted (Water organisations)**

(1) After section CW 55BB, insert:

**CW 55BC Water organisations**

- (1) An amount of income derived by a water organisation is exempt income if— 20
- (a) the water organisation provides services that are only 1 or more of the following:
- (i) water services;
- (ii) services that are related to, or necessary for, providing water services (for example, services relating to the management or maintenance of water services networks): 25
- (b) the water organisation is a company incorporated under the Companies Act 1993, and the only shareholders of the company are 1 or more of the following:
- (i) a territorial authority: 30
- (ii) a consumer trust that derives only exempt income under 1 or both of sections CW 41 and CW 42:
- (c) the water organisation is not a company incorporated under the Companies Act 1993, and any distribution it makes is to a person who derives only exempt income.‡ 35

~~(d) the water organisation is not an Auckland water organisation (as defined in section 4 of the Local Government (Auckland Council) Act 2009).~~

*Meaning of water organisation*

(2) In this section and section CW 39, **water organisation** has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**. 5

*Meaning of water services*

(3) In this section, **water services** has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**.

*Meaning of territorial authority*

(4) In this section, **territorial authority** has the same meaning as in section 2 of the Local Government Act 2002. 10

*Meaning of consumer trust*

(5) In this section, **consumer trust** has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**.

*Defined in this Act: amount, consumer trust, exempt income, income, water services, water organisation* 15

(2) **Subsection (1)** applies for the ~~2025–26–2024–25~~ and later income years.

### 237 Section YA 1 amended (Definitions)

(1) This section amends section YA 1.

(2) In section YA 1, insert in their appropriate alphabetical order: 20

**consumer trust** is defined in **section CW 55BC** (Water organisations) for the purposes of that section

**territorial authority** is defined in **section CW 55BC** (Water organisations) for the purposes of that section

**water organisation** is defined in **section CW 55BC** (Water organisations) for the purposes of that section and section CW 39 (Local authorities) 25

**water services** is defined in **section CW 55BC** (Water organisations) for the purposes of that section

### Subpart 4—Amendments to Local Government Act 2002

### 238 Principal Act 30

This subpart amends the Local Government Act 2002.

### 239 Section 6 amended (Meaning of council-controlled organisation and council organisation)

(1) Before section 6(1), insert:

(1AAA) In this Act, unless the context otherwise requires, **council-controlled organisation** means a council organisation that is— 35

- (a) a company—
- (i) in which equity securities carrying 50% or more of the voting rights at a meeting of the shareholders of the company are—
- (A) held by 1 or more local authorities; or
- (B) controlled, directly or indirectly, by 1 or more local authorities; or
- (ii) in which 1 or more local authorities have the right, directly or indirectly, to appoint 50% or more of the directors of the company; or
- (b) an entity in respect of which 1 or more local authorities have, whether or not jointly with other local authorities or persons,—
- (i) control, directly or indirectly, of 50% or more of the votes at any meeting of the members or controlling body of the entity; or
- (ii) the right, directly or indirectly, to appoint 50% or more of the trustees, directors, or managers (however described) of the entity.
- (1AAB) In addition, **council-controlled organisation** includes a water organisation within the meaning of **section 4** of the Local Government (Water Services) Act **2024** if—
- (a) the organisation is owned by 1 or more local authorities; or
- (b) the organisation is owned by 1 or more local authorities (and those local authorities hold 50% or more of the shares and voting rights in the organisation) and the trustees of 1 or more consumer trusts ~~and the local authorities hold more than 50% of the shares and voting rights in the organisation.~~
- (2) In section 6(1), repeal delete the definition of **council-controlled organisation**.

**239A Section 106 amended (Policy on development contributions or financial contributions)**

After section 106(6), insert:

- (6A) A territorial authority may extend its policy adopted under section 102(1) to a water organisation under section 93 of the Local Government (Water Services) Act 2024.**

*Ministerial powers in relation to water service providers*

**240 Section 253 amended (Outline of Part)**

In section 253(a) and (b), replace “or Watercare” with “, water organisations, or the trustees of consumer trusts”.

**241 Section 254 amended (How this Part works)**

- (1) Replace section 254(2) with:

- (2) Subparts 1 and **1A** provide the Minister with a range of options in relation to the following parties if they have a problem:
- (a) a local authority:
  - (b) a water organisation:
  - (c) the trustees of a consumer trust.
- (2) In section 254(4) and (5), replace “or Watercare” with “, a water organisation, or the trustees of a consumer trust”.
- (3) In section 254(6), replace “subpart 1” with “subparts 1 and **1A**”.

#### 242 Section 255 replaced (Application of this Part)

Replace section 255 with:

#### 255 Application of this Part

- (1) The Minister may appoint a Ministerial body—
- (a) under subpart 1 of this Part only to a local authority and not to any entity that the local authority may control or have an interest in, including, for example, a council-controlled organisation, council-controlled trading organisation, council organisation, or other subsidiary of the local authority; and
  - (b) under **subpart 1A** of this Part only to—
    - (i) a local authority in relation to providing water services; or
    - (ii) a group of 2 or more local authorities in relation to providing water services; or
    - (iii) a water organisation; or
    - (iv) a shareholder in a water organisation; ~~or~~
    - ~~(v) a consumer trust.~~
- (2) However, the Minister may exercise the powers in this Part in relation to a local board and, for that purpose, this Part applies, with any necessary modifications, as if the local board were a local authority.
- (3) Despite **subsection (1)(a)**, the Minister may exercise the powers in sections 257 to 258E in relation to a water organisation or consumer trust and, for that purpose, sections 256 to 258E, 258N to 258Q, and 258S to 258ZA apply as if the water organisation or consumer trust were a local authority.

#### 243 Section 256 amended (Interpretation)

- (1) In section 256, replace the definition of **Ministerial appointee** with:

**Ministerial appointee** means a person appointed—

- (a) under subpart 1 of this Part as a Crown Observer or a Crown Manager, or as a member of a Crown Review Team or of a Commission; or

- (b) under **subpart 1A** of this Part as a Crown facilitator—water services or a Crown commissioner—water services
- (2) In section 256, replace the definition of **Ministerial body** with:
- Ministerial body** means—
- (a) a Crown Review Team, a Crown Observer, a Crown Manager, or a Commission appointed under subpart 1 of this Part; or 5
- (b) a Crown facilitator—water services or a Crown commissioner—water services appointed under **subpart 1A** of this Part
- (3) In section 256, definition of **problem**,—
- (a) after “a local authority”, insert “or a water organisation”; and 10
- (b) paragraph (a)(ii), after “local authority”, insert “or the water organisation”; and
- (c) paragraph (a)(iii), after “region”, insert “or (as applicable) the water organisation’s service area”; and
- (d) paragraph (b)(i), after “local authority”, insert “or the water organisation”; and 15
- (e) after paragraph (b), insert:
- (c) includes, in relation to a water organisation, a local authority that provides water services, or a shareholder in a water organisation,—
- (i) a failure to give effect to proposals or undertakings specified in a water services delivery plan that has been accepted under section 20 of the Local Government (Water Services Preliminary Arrangements) Act 2024; and 20
- (ii) a matter or circumstance relating to the establishment of the water organisation, or the management, governance, or operations of the water organisation, or local authority, or consumer trust that prevents, or is likely to prevent, the water organisation or local authority from providing water services ~~that~~— 25
- (A) that are financially sustainable; and
- (B) that comply with all regulatory requirements ~~and standards~~; and 30
- (C) that meet the objectives for water service providers set out in ~~section 15–185~~ **section 15–185** of the Local Government (Water Services) Act **2024**; and
- (D) that are consistent with the intended approach to funding, revenue, and pricing set out in a water services strategy (*see section 190* of the Local Government (Water Services) Act **2024**); and 35

- (E) in accordance with the financial principles set out in **section 16** of the Local Government (Water Services) Act **2024**; and
- (iii) a matter or circumstance relating to the relationship between a shareholder of a water organisation and the board of the water organisation, or between 2 or more shareholders of a water organisation, and that prevents, or is likely to prevent, the water organisation from providing water services ~~that~~ —
- (A) that are financially sustainable; and
- (B) that comply with all regulatory requirements ~~and standards~~; and
- (C) that meet the objectives for water service providers set out in **section 15-185** of the Local Government (Water Services) Act **2024**; and
- (D) that are consistent with prices, revenues, and service service levels proposed in a water services strategy (see **section 190** of the Local Government (Water Services) Act **2024**); and
- (E) in accordance with the financial principles set out in **section 16** of the Local Government (Water Services) Act **2024**; and
- (iv) a significant or persistent failure to comply with Part 4 of the Commerce Act 1986 in relation to providing water services; and
- (v) the consequences of an event that causes, or is likely to cause, a significant disruption to water services or a risk to public health in the service area of the water organisation or in the district of the local authority; and
- (d) includes, in relation to the trustees of a consumer trust, a failure to act in accordance with the trust's trust deed.
- (4) In section 256, insert in their appropriate alphabetical order:
- consumer trust** has the meaning set out in **section 4** of the Local Government (Water Services) Act **2024**
- ~~**financially sustainable** has the meaning set out in **section 4** of the Local Government (Water Services) Act **2024**~~
- water organisation** has the meaning set out in **section 4** of the Local Government (Water Services) Act **2024**
- water service provider** has the meaning set out in **section 4** of the Local Government (Water Services) Act **2024**

**244 New subpart 1A of Part 10 inserted**

After section 258M, insert:

**Subpart 1A—Additional ministerial powers of assistance and  
intervention: water services**

*Minister may appoint Crown facilitator—water services*

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**258MA Minister may appoint Crown facilitator—water services**

- (1) The Minister may, in the circumstances set out in **subsection (2)**, appoint a Crown facilitator—water services to—
- (a) a local authority; or
  - (b) a group of 2 or more local authorities; or
  - (c) a water organisation; or
  - (d) a consumer trust.
- (2) The Minister may appoint a Crown facilitator—water services if—
- (a) the local authority, group of local authorities, water organisation, or the trustees of the consumer trust requests, in writing to the Minister, that the Minister do so and the Minister decides to grant that request; or
  - (b) the Minister believes, on reasonable grounds, that a problem exists and—
    - (i) the nature or extent of the problem is such that the local authority, group of local authorities, water organisation, or trustees of the consumer trust are ~~is~~ unlikely to effectively address the problem without the appointment of a Crown facilitator; or
    - (ii) in the case of a water organisation, the shareholders of the organisation are unable or unwilling to address the problem effectively; or
    - (iii) for no good reason, the local authority, group of local authorities, water organisation, or trustees of the consumer trust have not adequately implemented a recommendation of any other Ministerial body in relation to the problem; or
    - (iv) a Ministerial body currently or previously appointed to the local authority, group of local authorities, water organisation, or consumer trust has recommended the appointment; or
  - (c) the Minister believes, on reasonable grounds, that it would be beneficial to appoint a Crown facilitator—water services to provide assistance, advice, or direction to the local authority, group of local authorities, water organisation, or trustees to improve the arrangements for providing water services in the relevant region, district, or service area.

- (3) Before the appointment period begins, the Minister must give notice of the appointment—
- (a) in writing to the local authority, group of 2 or more local authorities, water organisation, or trustees; and
  - (b) by notice in the *Gazette*; and 5
  - (c) by public notice.
- (4) Each notice must comply with section 258S.
- (5) A Crown facilitator—water services must, to the extent authorised by their terms of reference,—
- (a) assist and advise the local authority, group of local authorities, water organisation, or trustees for the purposes of— 10
    - (i) addressing a matter specified in a request made under **subsection (2)(a)** or specified in the terms of reference:
    - (ii) addressing a problem:
    - (iii) identifying improvements for providing water services: 15
    - (iv) implementing improvements for providing water services; and
  - (b) monitor the local authority’s, group of local authorities’, water organisation’s, or trustees’ progress in addressing a problem or improving its provision of water services; and
  - (c) direct the local authority, group of local authorities, water organisation, or trustees to act to address a problem; and 20
  - (d) make recommendations to the Minister on whether the Minister should take further action in relation to the local authority, group of local authorities, water organisation, or consumer trust, including whether the Minister should— 25
    - (i) consider amending the Crown facilitator’s terms of reference, including the duration of the Crown facilitator’s appointment or the scope of the Crown facilitator’s role, to enable the Crown facilitator to continue their work; or
    - (ii) appoint any other Ministerial body to the local authority, group of local authorities, water organisation, or consumer trust; and 30
  - (e) ensure, as far as practicable, that the existing capability of the local authority, the group of local authorities, the water organisation, or the trustees is not diminished.
- (6) If applicable, and to the extent authorised by their terms of reference, a Crown facilitator—water services must also assist, advise, monitor, or direct the local authority, group of local authorities, water organisation, or trustees on any related matter as recommended by a Ministerial body currently or previously appointed to the local authority, group of local authorities, water organisation, or consumer trust. 40

(7)	The local authority, group of local authorities, water organisation, and the trustees of the consumer trust to which a Crown facilitator—water services has been appointed must—	
(a)	co-operate with the Crown facilitator so that the Crown facilitator may fulfil their terms of reference; and	5
(b)	comply with the directions of the Crown facilitator; and	
(c)	comply with any reasonable request of the Crown facilitator to provide any relevant information that the local authority, group of local authorities, water organisation, or consumer trust holds.	
<b>258MB How Crown facilitator—water services is appointed</b>		10
(1)	The Minister may appoint 1 person or a panel of 2 or more people to be a Crown facilitator—water services.	
(2)	If the Minister appoints a panel to be a Crown facilitator—water services, the Minister must appoint 1 member as the chairperson.	
(3)	The Minister appoints a Crown facilitator—water services by providing notice in writing to the person appointed or, if the Minister appoints a panel, to each member of the panel.	15
(4)	The notice must include the following information:	
(a)	the terms of reference of the Crown facilitator—water services, including—	20
(i)	an outline of the reasons for making the appointment; and	
(ii)	the problem or opportunity that the appointment is intended to address; and	
(iii)	the role of the Crown facilitator; and	
(iv)	the extent of the Crown facilitator’s authority:	25
(b)	the start and end dates of the appointment:	
(c)	the local authority, the group of local authorities, the water organisation, or the consumer trust to which the Crown facilitator is appointed.	
<i>Minister may appoint Crown commissioners—water services</i>		
<b>258MC Minister may appoint Crown commissioners—water services</b>		30
(1)	The Minister may, in the circumstances set out in <b>subsection (2)</b> , appoint 2 or more Crown commissioners—water services to—	
(a)	a local authority; or	
(b)	a group of 2 or more local authorities; or	
(c)	a water organisation; or	35
(d)	a consumer trust.	

- (2) The Minister may appoint Crown commissioners—water services if—
- (a) the local authority, group of local authorities, water organisation, or the trustees of the consumer trust requests, in writing to the Minister, that the Minister do so and the Minister decides to grant that request; or
  - (b) the Minister believes, on reasonable grounds, that a significant problem exists and—
    - (i) the nature or extent of the problem is such that the local authority, group of local authorities, water organisation, or trustees of the consumer trust are ~~is~~ unlikely to effectively address the problem without the appointment of Crown commissioners—water services; or
    - (ii) in the case of a water organisation, the shareholders of the organisation have failed to effectively address the problem; or
    - (iii) for no good reason, the local authority, group of local authorities, water organisation, or trustees of the consumer trust have not adequately implemented a recommendation of any other Ministerial body in relation to the problem; or
    - (iv) a Ministerial body currently or previously appointed to the local authority, group of local authorities, water organisation, or consumer trust has recommended the appointment; or
  - (c) the Minister believes, on reasonable grounds, that it is necessary to appoint Crown commissioners—water services to—
    - (i) identify or implement a solution to a problem, and the solution will require actions or decisions from 2 or more local authorities or 2 or more water organisations; or
    - (ii) replace the board of a water organisation; or
    - (iii) replace the joint committee or body that represents the shareholders of a water organisation (which may include, for example, replacing a local authority representative or trustee).
- (3) Before the appointment period begins, the Minister must give notice of the appointment—
- (a) in writing to the local authority, group of 2 or more local authorities, water organisation, or trustees; and
  - (b) by notice in the *Gazette*; and
  - (c) by public notice.
- (4) Each notice must comply with section 258S.
- (5) Crown commissioners—water services must, to the extent authorised by their terms of reference,—
- (a) work with the local authority, group of local authorities, water organisation, or trustees to—

<ul style="list-style-type: none"> <li>(i) address a problem:</li> <li>(ii) implement a solution to a problem or to address any other matter specified in a request made under <b>subsection (2)(a)</b> or specified in the terms of reference; and</li> </ul>	5
<ul style="list-style-type: none"> <li>(b) direct the local authority, group of local authorities, water organisation, or trustees to act to— <ul style="list-style-type: none"> <li>(i) address a problem:</li> <li>(ii) implement a solution to a problem or to address any other matter specified in a request made under <b>subsection (2)(a)</b> or specified in the terms of reference:</li> <li>(iii) make decisions that are necessary to address the problem or to implement the solution; and</li> </ul> </li> </ul>	10
<ul style="list-style-type: none"> <li>(c) oversee the local authority, group of local authorities, water organisation, or trustees implementing a solution to a problem; and</li> </ul>	15
<ul style="list-style-type: none"> <li>(d) make recommendations to the Minister on whether the Minister should take further action in relation to the local authority, group of local authorities, water organisation, or consumer trust, including whether the Minister should— <ul style="list-style-type: none"> <li>(i) consider amending the Crown commissioners' terms of reference, including the duration of the Crown commissioners' appointment or the scope of the Crown commissioners' role, to enable the Crown commissioners to continue their work; or</li> <li>(ii) appoint any other Ministerial body to the local authority, group of local authorities, water organisation, or consumer trust; and</li> </ul> </li> </ul>	20
<ul style="list-style-type: none"> <li>(e) ensure, to the extent practicable, that the ability of the local authority, group of local authorities, water organisation, or trustees to perform their obligations in relation to the provision of water services is not diminished.</li> </ul>	25
<ul style="list-style-type: none"> <li>(6) Crown commissioners—water services may, to the extent authorised by their terms of reference, do any of the following: <ul style="list-style-type: none"> <li>(a) if appointed to a water organisation, perform any functions or duties, or exercise any powers, of the board of the water organisation:</li> <li>(b) if appointed to a consumer trust, perform any functions or duties, or exercise any powers, of the trustees:</li> <li>(c) if appointed to a water organisation that is owned by 1 or more local authorities, perform any functions or duties that the committee or body that represents the shareholders of the water organisation would otherwise undertake in relation to the water organisation.</li> </ul> </li> </ul>	30
<ul style="list-style-type: none"> <li>(7) If applicable, and to the extent authorised by their terms of reference, Crown commissioners—water services must also direct the local authority, group of</li> </ul>	40

local authorities, water organisation, or trustees on any related matter as recommended by a Ministerial body currently or previously appointed to the local authority, group of local authorities, water organisation, or consumer trust.

- (8) The local authority, group of local authorities, water organisation, or trustees of the consumer trust to which Crown commissioners—water services have been appointed must— 5
- (a) co-operate with the Crown commissioners—water services so that the Crown commissioners—water services may fulfil their terms of reference; and
  - (b) comply with the directions of the Crown commissioners—water services; and 10
  - (c) comply with any reasonable request of the Crown commissioners—water services to provide any relevant information that the local authority, group of local authorities, water organisation, or trustees hold.

**258MD How Crown commissioners—water services are appointed** 15

- (1) The Minister may appoint a panel of 2 or more people to be Crown commissioners—water services.
- (2) The Minister must appoint 1 Crown commissioner—water services to be the chairperson.
- (3) The Minister appoints Crown commissioners—water services by providing notice in writing to each person appointed. 20
- (4) The notice must include the following information:
  - (a) the terms of reference of the panel ~~Crown commissioner—water services~~, including—
    - (i) an outline of the reasons for making the appointment; and 25
    - (ii) the problem or opportunity that the appointment is intended to address; and
    - (iii) the role of the panel ~~Crown commissioner—water services~~; and
    - (iv) the extent of the panel's ~~Crown commissioner—water services's~~ authority: 30
  - (b) the start and end dates of the appointment:
  - (c) the local authority, group of local authorities, water organisation, or consumer trust to which the panel ~~Crown commissioner—water services~~ is appointed.

*Obligation to consult***258ME Minister must consult**

- (1) The Minister must consult the Minister of Commerce and Consumer Affairs when determining what action, if any, to take under subpart 1 or **1A**, including when— 5
- (a) appointing a Ministerial appointee; or
  - (b) formulating the terms of reference for a Ministerial appointee.
- (2) However, the obligation to consult only applies in relation to a significant or persistent failure (or possible failure) to comply with the regulation of water services set out in **subpart 12** of Part 4 of the Commerce Act 1986. 10
- (3) When determining what action to take, if any, under this subpart, the Minister may consider any information they receive, including any information provided by the Commerce Commission.

**245 Subpart 2 heading in Part 10 amended**

In Part 10, in the subpart 2 heading, replace “subpart 1” with “subparts 1 and **1A**”. 15

**246 Section 258N amended (Minister may consult any person)**

In section 258N(1)(a) and (b), after “subpart 1”, insert “**or 1A**”.

**247 Section 258O amended (Minister must publish list in *Gazette*)**

In section 258O(1), after “subpart 1”, insert “**or 1A**”. 20

**248 Section 258P amended (Minister must have regard to published list)**

- (1) In section 258P(1), after “subpart 1”, insert “**or 1A**”.
- (2) Replace section 258P(2) with:
- (2) To avoid doubt, the Minister may act under this Part and appoint a Ministerial body even if the relevant problem does not relate to a matter featured in the list. 25

**249 Section 258Q amended (Notice to local authority of proposed appointment of Ministerial body)**

- (1) In the heading to section 258Q, delete “**to local authority**”.
- (2) In section 258Q(1)(a), after “local authority”, insert “, group of local authorities, water organisation, or trustees of a consumer trust” ~~in each place.~~ 30
- (3) In section 258Q(1)(c), (2)(a), and (3)(a), after “local authority”, insert “, group of local authorities, water organisation, or trustees” in each place.
- (4) In section 258Q(2)(b), replace “or 258F(2)” with “258F(2), **258MA(3)**, or **258MC(3)**”.

- (5) In section 258Q(3)(b), replace “local authority’s district or region” with “district, region, or service area of the local authority, group of local authorities, water organisation, or consumer trust”.

**250 Section 258S amended (Notification of appointment of Ministerial body)**

In section 258S(1), replace “or 258F(1)” with “258F(1), **258MA(1)**, or **258MC(1)**”. 5

**251 Section 258W amended (Recovery of expenses from local authority)**

- (1) In the heading to section 258W, delete “**from local authority**”.

- (2) Replace section 258W(1) with:

(1) A local authority, group of local authorities, water organisation, or trustees of a consumer trust owe as a debt to the Crown any expenses that the Crown incurs for the appointment of a Crown Manager, Crown Commission, Crown facilitator—water services, or Crown commissioner—water services to the local authority, group of local authorities, water organisation, or consumer trust, including the payment of remuneration and expenses to the Crown Manager, a member of the Commission, the Crown facilitator—water services, or the Crown commissioner—water services. 10 15

(1A) A water organisation or the trustees of a consumer trust owes as a debt to the Crown any expenses that the Crown incurs for the appointment of a Crown Observer or a Crown Review Team to the water organisation or consumer trust, including the payment of remuneration and expenses to the Crown Observer or a member of the Crown Review Team. 20

- (3) In section 258W(2), after “local authority”, insert “or group of local authorities” in each place.

- (4) After section 258W(3), insert: 25

(4) If the Minister appoints a Ministerial appointee to a group of local authorities, each local authority owes an equal share of the expenses incurred as a debt to the Crown.

**252 Section 258ZA replaced (Decisions and directions of Crown Manager or Commission remain in force until local authority decides otherwise)** 30

Replace section 258ZA with:

**258ZA Decisions and directions remain in force**

(1) **Subsections (2) and (3)** apply to a local authority, group of local authorities, water organisation, or trustees of a consumer trust on and from the expiry of the term of 1 of the following Ministerial appointees appointed to the local authority, group of local authorities, water organisation, or consumer trust: 35

- (a) Crown Manager:  
(b) Crown facilitator—water services:

- (c) Crown commissioner—water services.
- (2) A direction given to the local authority, group of local authorities, water organisation, or trustees of the consumer trust by the Ministerial appointee ceases to have effect.
- (3) Despite **subsection (2)**, any decision made by the local authority, group of local authorities, water organisation, or trustees giving effect to the direction continues in force unless and until the local authority, group of local authorities, water organisation, or trustees revoke or amend the decision. 5
- (4) **Subsection (5)** applies to a local authority on and from the expiry of the term of a Commission appointed to the local authority. 10
- (5) A decision of the Commission continues in force as if it were a decision made by the local authority unless and until the local authority revokes or amends the decision.
- (6) **Subsection (7)** applies to a local authority, group of local authorities, water organisation, or trustees on and from the expiry of the term of a Crown commissioner—water services appointed to the local authority, group of local authorities, water organisation, or consumer trust. 15
- (7) A decision of the Crown commissioner—water services continues in force as if it were a decision made by the local authority, group of local authorities, water organisation, or trustees unless and until the local authority, group of local authorities, water organisation, or trustees revoke or amend the decision. 20

### 253 New section 258ZB and cross-heading inserted

After section 258ZA, insert:

*Information required for purpose of advising Minister*

- 258ZB Secretary may require water services information** 25
- (1) For the purpose set out in **subsection (2)**, the Secretary may require the following parties to provide the Secretary with information that relates to providing water services under this Act:
- (a) a local authority:
- (b) a water service provider: 30
- (c) a shareholder in a water organisation.
- (2) The purpose is to enable the Secretary to advise the Minister in relation to exercising the Minister's powers under this Part.
- (3) A party that is required to provide the Secretary with information under **subsection (1)** must provide the information in accordance with the terms of the request. 35

**254 Schedule 1AA amended**

In Schedule 1AA,—

- (a) insert the Part set out in **Schedule 7** of this Act as the last Part; and
- (b) make all necessary amendments.

**254A Schedule 13 amended**

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In Schedule 13, after clause 2, insert:

**3 Calculations when water organisation being established**

**(1)** This clause applies in the period when—

- (a)** a territorial authority is establishing a water organisation under the Local Government (Water Services) Act 2024; but
- (b)** before the territorial authority amends its policy on development contributions or financial contributions under **section 83(2)** of that Act.

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**(2)** When calculating development contributions under this Act, the territorial authority may base its calculation on the capital expenditure that the authority expects the water organisation to incur after the transfer agreement takes effect.

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**(3)** In this clause, **transfer agreement** has the meaning set out in **section 4** of the Local Government (Water Services) Act 2024.

Subpart 5—Amendments to Local Government (Water Services  
Preliminary Arrangements) Act 2024

**255 Principal Act**

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**Sections 256 and 257** amend the Local Government (Water Services Preliminary Arrangements) Act 2024.

**256 Section 89 amended (Crown monitor’s and Secretary’s expenses recoverable from Watercare)**

Replace section 89(1)(a) with:

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- (a)** expenses incurred by the Crown monitor in relation to performing or exercising its functions, duties, or powers under this Act; and

**257 Schedule 1 amended**

In Schedule 1,—

- (a) insert the Part set out in **Schedule 8** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

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Subpart 6—Amendments to Receiverships Act 1993

**258 Principal Act**

This subpart amends the Receiverships Act 1993.

**259 Cross-heading above section 40A replaced**

Replace the cross-heading above section 40A with “*Local authorities and water organisations*”.

**260 Section 40AAA replaced (Meaning of Watercare)**

Replace section 40AAA with:

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**40AAA Meaning of water organisation and Watercare**

In sections 40A to 40E,—

**water organisation** has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**

**Watercare** means Watercare Services Limited.

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**261 Section 40A amended (Instrument may provide for appointment of receiver)**

In section 40A, after “local authority”, insert “~~or~~ a water organisation”.

**262 Section 40B amended (Power of court to appoint receiver)**

(1) After section 40B(1)(b), insert:

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(c) on the application of any creditor of a water organisation, appoint a receiver of any asset of a water organisation or appoint a receiver for the purposes of **section 213** of the Local Government (Water Services) Act **2024**.

(2) After section 40B(4), insert:

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(4A) When considering, in accordance with subsection (2), the terms and conditions upon which a receiver can be appointed by a court in relation to a water organisation, the court must—

(a) take account of the interests of both the secured and non-secured creditors of the water organisation, as against—

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(i) the interests of the water organisation itself; and

(ii) the requirement of the water organisation to provide those services that are essential for the maintenance of public health and safety; and

(iii) the interests of consumers with property in the service area of the water organisation; and

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(iv) the interests of the general public living within the service area of the water organisation; and

(b) take account of the interests of secured creditors as against the interests of non-secured creditors of the water organisation.

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(3) Replace section 40B(5) with:

- (5) In this section,—  
**Auckland** has the same meaning as in section 4(1) of the Local Government (Auckland Council) Act 2009  
**service area** has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**. 5
- 263 Section 40C amended (Powers and duties of receivers)**
- (1) In section 40C(1),—  
 (a) after “a local authority”, insert “or a specified water organisation”;  
 (b) after “the local authority”, insert “or the specified water organisation”.
- (2) After section 40C(3), insert: 10
- (4) If Crown commissioners—water services are or have been appointed to an entity under **section 258MC** of the Local Government Act 2002 (either before or after the appointment of a receiver in respect of some or all of the assets or rates of that entity under section 40A or section 40B(1)), the High Court may order that any receiver so appointed may not, until the High Court so orders, exercise any of the rights, powers, and duties of a receiver. 15
- (5) In **subsection (1)**, **specified water organisation** means a water organisation that is exempt under an Order in Council made under **section 57** of the Local Government (Water Services) Act **2024** from the requirement that a water organisation must be a company incorporated under the Companies Act 1993. 20
- 264 Section 40D amended (Constraints on receiver)**
- (1) In section 40D(1), after “a local authority”, insert “~~or~~ a water organisation”.
- (2) In section 40D(1), after “the local authority”, insert “~~or~~ the water organisation”.
- (3) In section 40D(3), after “the local authority”, insert “~~or~~ the water organisation”.
- (4) In section 40D(4), after “the local authority’s”, insert “~~or~~ the water organisation’s”.
- (5) Replace section 40D(5) with:
- (5) Subject to subsection (6), subsection (5A) applies to any land that is vested in a local authority, ~~or~~ a water organisation, or Watercare and is— 30  
 (a) a reserve under the Reserves Act 1977; or  
 (b) land over which the local authority, ~~or~~ the water organisation, or Watercare has no power of disposition; or  
 (c) land in respect of which the local authority’s, ~~or~~ the water organisation’s, or Watercare’s power of disposition is conditional. 35
- (6) In section 40D(5A), after “local authority”, insert “~~or~~ that water organisation”.

- (7) In section 40D(6), after “local authority”, insert “~~or~~ the water organisation.”

**265 Section 40E amended (Protection for receiver)**

- (1) In section 40E(1) and (2), after “local authority”, insert “~~or~~ a water organisation.”
- (2) In section 40E(3)(a), after “local authority”, insert “~~or~~ the water organisation.” 5

Subpart 7—Amendments to Resource Management Act 1991

**266 Principal Act**

This subpart amends the Resource Management Act 1991.

**267 Section 2 amended (Interpretation)** 10

- (1) In section 2(1), definition of **use**, paragraph (a), after “10B,”, insert “**44B**.”

- (2) In section 2(1), definition of **use**, paragraph (b), after “10A,”, insert “**44B**.”

- (3) In section 2(1), insert in their appropriate alphabetical order:

**infrastructure design solution** means an infrastructure design solution made under **section 139B** of the Water Services Act 2021 15

**stormwater environmental performance standard** means a stormwater environmental performance standard made under section 139A of the Water Services Act 2021

**wastewater environmental performance standard** means a wastewater environmental performance standard made under section 138 of the Water Services Act 2021 20

**267A Section 9 amended (Restrictions on use of land)**

- (1) After section 9(1)(d), insert:

(e) is an activity expressly allowed by a wastewater environmental performance standard, a stormwater environmental performance standard, or an infrastructure design solution. 25

- (2) After section 9(2)(b), insert:

(c) is an activity expressly allowed by a wastewater environmental performance standard, a stormwater environmental performance standard, or an infrastructure design solution. 30

- (3) After section 9(3)(c), insert:

(d) is an activity expressly allowed by a wastewater environmental performance standard, a stormwater environmental performance standard, or an infrastructure design solution.

**267B Section 12 amended (Restrictions on use of coastal marine area)**

- (1) In section 12(1), (2), and (3), after “national environmental standard,”, insert “a wastewater environmental performance standard, a stormwater environmental performance standard, an infrastructure design solution.”
- (2) In section 12(4), definition of **remove any sand, shingle, shell, or other natural material**, after “national environmental standard”, insert “, the wastewater environmental performance standard, the stormwater environmental performance standard, the infrastructure design solution.”

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**267C Section 13 amended (Restriction on certain uses of beds of lakes and rivers)**

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- (1) In section 13(1), after “national environmental standard,”, insert “a wastewater environmental performance standard, a stormwater environmental performance standard, an infrastructure design solution.”
- (2) In section 13(2), after “national environmental standard”, insert “, a wastewater environmental performance standard, a stormwater environmental performance standard, an infrastructure design solution.”

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**267D Section 14 amended (Restrictions relating to water)**

- (1) In section 14(1), after “national environmental standard”, insert “, a wastewater environmental performance standard, a stormwater environmental performance standard, an infrastructure design solution.”
- (2) In section 14(3)(a), after “national environmental standard,”, insert “a wastewater environmental performance standard, a stormwater environmental performance standard, an infrastructure design solution.”

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**267E Section 15 amended (Discharges of contaminants into environment)**

- (1) In section 15(1), after “or other regulations,”, insert “a wastewater environmental performance standard, a stormwater environmental performance standard, an infrastructure design solution.”
- (2) In section 15(2), after “national environmental standard”, insert “, a wastewater environmental performance standard, a stormwater environmental performance standard, or an infrastructure design solution”.
- (3) After section 15(2A)(a), insert:
- (aa) is expressly allowed by a wastewater environmental performance standard, a stormwater environmental performance standard, or an infrastructure design solution; or

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**268 New section 44B and cross-heading inserted**

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After section 44A, insert:

Designations ~~Infrastructure design solutions~~**44B Relationship between environmental performance standards and designations**

- (1) A designation that exists when a stormwater environmental performance standard, ~~or a~~ wastewater environmental performance standard, or an infrastructure design solution is made prevails over the environmental performance standard or the infrastructure design solution 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 environmental performance standard or infrastructure design solution is relevant.
- (2) If the conditions of a designation are altered as described in **subsection (1)(b)**, the environmental performance standard or infrastructure design solution—
- (a) applies to the altered conditions; and
  - (b) does not apply to the unaltered conditions.
- (3) Despite subsection (1), a ~~A~~ stormwater environmental performance standard, ~~or a~~ wastewater environmental performance standard, or an infrastructure design solution prevails over a designation that requires an outline plan if, when the environmental performance standard or infrastructure design solution is made,—
- (a) the designation exists; and
  - (b) no outline plan for the designation has completed the process described in section 176A.
- (4) A stormwater environmental performance standard, ~~or a~~ wastewater environmental performance standard, or an infrastructure design solution that exists when a designation is made prevails over the designation.
- (5) A use is not required to comply with a stormwater environmental performance standard, ~~or a~~ wastewater environmental performance standard, or an infrastructure design solution if—
- (a) the use was lawfully established by way of a designation that has ~~lapsed~~ been removed; 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 was removed ~~lapsed~~; and
  - (c) the environmental performance standard or infrastructure design solution is made—
    - (i) after the designation was made; and
    - (ii) before or after the designation is removed ~~it lapses~~.

- (6) Work under a designation is not required to comply with a stormwater environmental performance standard, ~~or a wastewater environmental performance standard, or an infrastructure design solution~~ if the work has come under the designation through the following sequence of events:
- (a) the work is made; and 5
  - (b) the environmental performance standard or infrastructure design solution 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. 10

## 269 New sections 58JA to 58JC ~~and 58JB~~ and cross-headings inserted

After section 58J, insert:

### *Wastewater and stormwater environmental performance standards*

- 58JA Relationship between wastewater and stormwater environmental performance standards and other instruments** 15
- (1) A wastewater environmental performance standard or a stormwater environmental performance standard prevails over a rule.
  - (2) **Subsection (1)** applies whether the rule is more or less stringent than the wastewater environmental performance standard or the stormwater environmental performance standard. 20
  - (3) If there is any conflict or duplication ~~inconsistency~~ between a wastewater environmental performance standard or a stormwater environmental performance standard and a document listed in **subsection (4)**, the environmental performance standard prevails.
  - (4) The documents are— 25
    - (aaa) a national policy statement:
    - (aab) a New Zealand coastal policy statement:
      - (a) a national environmental standard:
      - ~~(b) a national policy statement:~~
      - ~~(c) a New Zealand coastal policy statement:~~ 30
      - (ca) a regional policy statement:
      - (d) a regional plan:
      - ~~(e) a regional policy statement:~~
      - (f) a district plan.
- (4A) However, if anything in a document listed in **subsection (4)(ca), (d), or (f)** (the **relevant document**) conflicts with or duplicates anything in a wastewater environmental performance standard or a stormwater environmental perform- 35

- ance standard then, to the extent that the conflict or duplication results from the relevant document giving effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River,—
- (a) **subsection (3)** does not apply; and
- (b) the relevant document prevails. 5
- (5) If a local authority’s plan or proposed plan contains a rule that conflicts with or duplicates a provision in a wastewater environmental performance standard or a stormwater environmental performance standard, the local authority must amend the plan or proposed plan to remove the conflict or duplication—
- (a) without using the process in Schedule 1; and 10
- (b) as soon as practicable after the date on which the standard comes into force.
- (6) Every local authority and consent authority must—
- (a) enforce the observance of stormwater environmental performance standards and wastewater environmental performance standards ~~—to the extent to which their powers enable them to do so; and~~ 15
- (i) within the limits specified in **subsections (4A) and (8)**; and
- (ii) to the extent to which their powers enable them to do so; and
- (b) observe stormwater environmental performance standards and wastewater environmental performance standards. 20
- ~~(7) Every local authority and consent authority must observe national environmental standards.~~
- (8) However, **subsections (1), (2), and (5)** do not apply if—
- (a) the rule gives effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River; and 25
- (b) the rule is more stringent than the wastewater environmental performance standard or the stormwater environmental performance standard.

*Infrastructure design solutions*

- 58JB Relationship between infrastructure design solutions and other instruments** 30
- (1) An infrastructure design solution prevails over a rule.
- (2) **Subsection (1)** applies whether the rule is more or less stringent than the infrastructure design solution.
- (2A) However, a rule prevails over the infrastructure design solution, and **subsections (1) and (2)** do not apply, if— 35
- (a) the rule is included in a district plan or regional plan to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River; and

- (b) the rule is more stringent than the infrastructure design solution.
- (3) If there is any conflict or duplication ~~inconsistency~~ between an infrastructure design solution and a document listed in **subsection (4)**, the infrastructure design solution prevails.
- (4) The documents are— 5
- (aaa) a national policy statement:
- (aab) a New Zealand coastal policy statement:
- (a) a national environmental standard:
- (b) ~~a national policy statement:~~
- (c) ~~a New Zealand coastal policy statement:~~ 10
- (ca) a regional policy statement:
- (d) a regional plan:
- (e) ~~a regional policy statement:~~
- (f) a district plan.
- (5) However, if anything in a document listed in **subsection (4)(ca), (d), or (f)** (the **relevant document**) conflicts with or duplicates anything in an infrastructure design solution then, to the extent that the conflict or duplication results from the relevant document giving effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River,— 15
- (a) **subsection (3)** does not apply; and 20
- (b) the relevant document prevails.
- (6) If a local authority’s plan or proposed plan contains a rule that conflicts with or duplicates a provision in an infrastructure design solution, the local authority must amend the plan or proposed plan to remove the inconsistency or duplication— 25
- (a) without using the process in Schedule 1; and
- (b) as soon as practicable after the date on which the standard comes into force.
- (7) However, **subsection (6)** does not apply if—
- (a) the rule gives effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River; and 30
- (b) the rule is more stringent than the infrastructure design solution.
- 58JC References to infrastructure design solutions**
- Each reference to an infrastructure design solution in this Act must be read, unless the context otherwise requires, as referring only to an infrastructure design solution that the relevant person has decided to rely on. 35

- 270 Section 87A amended (Classes of activities)**
- (1) In section 87A, delete “(including any national environmental standard)” in each place.
- (2) After section 87A(7), insert:
- (8) In this section, **regulations** includes— 5
- (a) any national environmental standard; and
  - (b) any stormwater environmental performance standard; and
  - (c) any wastewater environmental performance standard; and
  - (d) any infrastructure design solution.
- 271 Section 95A amended (Public notification of consent applications)** 10
- Replace section 95A(5)(a) with:
- (a) the application is for a resource consent for 1 or more activities and public notification is precluded for each activity by 1 or more of the following: 15
- (i) a rule:
  - (ii) a national environmental standard:
  - (iii) an infrastructure design solution:
  - (iv) a stormwater environmental performance standard:
  - (v) a wastewater environmental performance standard:
- 272 Section 95B amended (Limited notification of consent applications)** 20
- Replace section 95B(6)(a) with:
- (a) the application is for a resource consent for 1 or more activities and public notification is precluded for each activity by 1 or more of the following: 25
- (i) a rule:
  - (ii) a national environmental standard:
  - (iii) an infrastructure design solution:
  - (iv) a stormwater environmental performance standard:
  - (v) a wastewater environmental performance standard:
- 273 Section 104 amended (Consideration of applications)** 30
- (1) After section 104(1)(b)(i), insert:
- (ia) a wastewater environmental performance standard:
  - (ib) a stormwater environmental performance standard:
  - (ic) an infrastructure design solution:
- (1A) Replace section 104(2D) with:** 35

(2D) When considering a resource consent application that relates to a wastewater network, as defined in section 5 of the Water Services Act 2021,—

- (a) a consent authority must not grant the consent contrary to—
  - (i) a wastewater environmental performance standard made under section 138 of that Act; or
  - (ii) an infrastructure design solution; and
- (b) a consent authority must include, as a condition of granting the consent, requirements that are no more or less restrictive than is necessary to give effect to—
  - (i) the wastewater environmental performance standard; or
  - (ii) the infrastructure design solution; but
- (c) paragraphs (a) and (b) do not apply if an exception under a wastewater environmental performance standard or an infrastructure design solution applies.

~~(2) Replace section 104(2D)(a) and (b) with:~~

- ~~(a) must not grant the consent contrary to—~~
  - ~~(i) a wastewater environmental performance standard made under section 138 of that Act; or~~
  - ~~(ii) an infrastructure design solution; and~~
- ~~(b) must include, as a condition of granting the consent, requirements that are no more or less restrictive than is necessary to give effect to—~~
  - ~~(i) the wastewater environmental performance standard (unless an exception applies); or~~
  - ~~(ii) the infrastructure design solution (unless an exception applies).~~

~~(3) After section 104(2D), insert:~~

~~(2DA) When considering a resource consent application that relates to a wastewater network, as defined in section 5 of the Water Services Act 2021,—~~

- ~~(a) subsection (2D) does not apply in any circumstances in which an exception under a wastewater environmental performance standard or an infrastructure design solution applies; and~~
- ~~(b) a consent authority must not grant the consent contrary to a wastewater environmental performance standard made under section 138 of that Act.~~

(3A) Replace section 104(2E) with:

(2E) When considering a resource consent application that relates to a stormwater network, as defined in section 5 of the Water Services Act 2021, a consent authority—

- (a) must not grant the consent contrary to—

- (i) a stormwater environmental performance standard made under section 139A of that Act; or
- (ii) an infrastructure design solution; and
- (b) must include, as a condition of granting the consent, requirements that are no more or less restrictive than is necessary to give effect to— 5
- (i) the stormwater environmental performance standard; or
- (ii) the infrastructure design solution; but
- (c) paragraphs (a) and (b) do not apply if an exception under a stormwater environmental performance standard or an infrastructure design solution applies. 10
- (4) ~~Replace section 104(2E)(a) and (b) with:~~
- (a) ~~must not grant the consent contrary to—~~
- (i) ~~a stormwater environmental performance standard made under section 139A of that Act; or~~
- (ii) ~~an infrastructure design solution; and~~ 15
- (b) ~~must include, as a condition of granting the consent, requirements that are no more or less restrictive than is necessary to give effect to—~~
- (i) ~~the stormwater environmental performance standard (unless an exception applies); or~~
- (ii) ~~the infrastructure design solution (unless an exception applies).~~ 20
- (5) ~~After section 104(2E), insert:~~
- (2EA) ~~When considering a resource consent application that relates to a stormwater network, as defined in section 5 of the Water Services Act 2021,—~~
- (a) ~~subsection (2D) does not apply in any circumstances in which an exception under a stormwater environmental performance standard or an infrastructure design solution applies; and~~ 25
- (b) ~~a consent authority must not grant the consent contrary to a stormwater environmental performance standard made under section 139A of that Act.~~

**273A Section 104A amended (Determination of applications for controlled activities)** 30

In section 104A(b)(i), after “environmental standards”, insert “, wastewater environmental performance standards, stormwater environmental performance standards, infrastructure design solutions.”.

**273B Section 104C amended (Determination of applications for restricted discretionary activities)**

In section 104C(1)(a) and (3)(a), after “national environmental standards”, insert “, wastewater environmental performance standards, stormwater environmental performance standards, infrastructure design solutions,”.

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**273C New section 104DA inserted (Circumstances in which consent authority may grant resource consent contrary to standards and solutions)**

After section 104D, insert:

**104DA Circumstances in which consent authority may grant resource consent contrary to standards and solutions**

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(1) Despite the provisions listed in **subsection (2)**, a consent authority may grant a resource consent contrary to a stormwater environmental performance standard, a wastewater environmental performance standard, or an infrastructure design solution for the purpose of giving effect to—

(a) Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River; or

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(b) a provision that is included in a regional policy statement or a proposed regional policy statement to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River; or

(c) a provision that—

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(i) is included in a plan or proposed plan to give effect to Te Ture Whaimana o Te Awa o Waikato—the Vision and Strategy for the Waikato River; and

(ii) is more stringent than the environmental performance standard or infrastructure design solution.

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(2) The provisions are—

(a) section 87A;

(b) **section 104(2D) and (2E)**;

(c) **section 105(3)**;

(d) **section 107(4)**;

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(e) **section 123(aa) and (ab)**;

(f) section 128.

**274 Section 105 amended (Matters relevant to certain applications)**

After section 105(2), insert:

(3) However, subsections (1) and (2) do not apply if an application is for an activity—

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- (a) that is regulated by a wastewater environmental performance standard or a stormwater environmental performance standard and the application complies with the relevant environmental performance standard; or
- (b) that is regulated by an infrastructure design solution and the application complies with ~~meets the requirements of the~~ infrastructure design solution. 5
- 275 Section 107 amended (Restriction on grant of certain discharge permits)**
- After section 107(3), insert:
- (4) However, this section does not apply if an application is for an activity—
- (a) that is regulated by a wastewater environmental performance standard or a stormwater environmental performance standard and the application complies with the relevant environmental performance standard; or 10
- (b) that is regulated by an infrastructure design solution and the application complies with ~~meets the requirements of the~~ design solution.
- 275A Section 108 amended (Conditions of resource consents)** 15
- In section 108(1), after “108AA and”, insert “any wastewater environmental performance standards, any stormwater environmental performance standards, any infrastructure design solutions, and”.
- 276 Section 108AA amended (Requirements for conditions of resource consents)** 20
- After section 108AA(1)(b)(iv), insert:
- (v) an infrastructure design solution; or
- 277 Section 123 (Duration of consent)**
- (1) After section 123(a), insert:
- (aa) the period for which a resource consent for an activity that meets the requirements of a wastewater environmental performance standard or a stormwater environmental performance standard is granted is 35 years: 25
- (ab) the period for which a resource consent for a wastewater treatment plant that meets the requirements of an infrastructure design solution is granted is 35 years: 30
- (2) In section 123, insert as subsection (2):
- (2) Despite anything in **subsection (1)**, the period of an extant wastewater consent (as defined in **section 139B**), may be extended as specified in **section 139C**.
- 278 Section 124 amended (Exercise of resource consent while applying for new consent)** 35
- (+) After section 124(2), insert:

- (2A) The holder of a resource consent for an activity that is regulated by a wastewater environmental performance standard or a stormwater environmental performance standard may, if they make an application under subsection (1) or (2), continue to operate under an expired consent—
- (a) for the duration specified in the environmental performance standard; or 5
  - (b) if the environmental performance standard does not specify a duration, until the date determined under subsection (3).
- (2) ~~In section 124(3), after “the existing consent until”, insert “the earliest of”.~~
- (3) ~~In section 124(3)(a), replace “; or” with “:”.~~
- (4) ~~In section 124(3)(a) and (b), before “a new consent”, insert “the date on which”.~~ 10
- (5) ~~After section 124(3)(b), insert:~~
- (e) ~~the date specified in a stormwater environmental performance standard or a wastewater environmental performance standard (which must be no earlier than 12 months after the date on which the environmental performance standard is made) that applies to the activity that is authorised by the existing consent.~~ 15
- 279 Section 128 amended (Circumstances when consent conditions can be reviewed)**
- After section 128(1)(bb), insert: 20
- (bc) in the case of a resource consent for an activity that is regulated by a wastewater environmental performance standard or a stormwater environmental performance standard, when the environmental performance standard has been made or amended; or
- 280 New sections 139B to 139D and cross-heading inserted** 25
- After section 139A, insert:
- Extant wastewater consents*
- 139B Definitions for purposes of extant wastewater consents**
- In **sections 139C and 139D**, unless the context otherwise requires,—
- commencement date** means the date on which this section comes into force 30
- extant wastewater consent** means a resource consent that—
- (a) is for ~~relates to~~ an activity associated with constructing or operating a wastewater network, as defined in section 5 of the Water Services Act 2021 ~~treatment facility~~; and
  - (b) is current on the commencement date; and 35

- (c) ~~immediately before the commencement date,~~ is due to expire on a date that is before the date that is 3 years after the commencement date ~~extended expiry date~~

**extended expiry date** means ~~the date that is 2 years after the commencement date.~~

- (a) the date that is 3 years after the commencement date; or  
 (b) if the Minister extends the period of an extant wastewater consent under **section 139CA**, the date on which the extended period ends.

### **139C Extension of extant wastewater consents**

- (1) The expiry date of an extant wastewater consent is extended to the extended expiry date. 10
- (2) An extant wastewater consent is not able to be extended other than as specified in **subsection (1)**.
- (3) Any conditions applying to an extant wastewater consent continue to apply unless a change to a condition is required as a consequence of extending the duration of the extant wastewater consent under **subsection (1) or section 139CA**. 15
- (4) However, the extension of an extant wastewater consent under this section or **section 139CA** does not affect the application of sections 127 to 129.

### **139CA Minister may extend extant wastewater consent in exceptional circumstances**

- (1) The Minister may extend the expiry date of an extant wastewater consent to a date that is more than 3 years after the commencement date. 20
- (2) The Minister may extend the expiry date of an extant wastewater consent—  
 (a) only if the Minister is satisfied that exceptional circumstances exist that justify such an extension; and 25  
 (b) for a maximum period of 2 years.
- (3) The Minister may extend the expiry date of an extant wastewater consent—  
 (a) on receipt of an application under **section 139CB**; or  
 (b) on the Minister's own volition. 30

### **139CB Application to extend extant wastewater consent**

- (1) The holder of an extant wastewater consent may apply to the Minister for an extension of the expiry date of the extant wastewater consent.
- (2) An application must be made no later than 30 months after the commencement date. 35

- (3) For the purposes of deciding whether to grant an application, the Minister may require the applicant to provide such further information as the Minister considers necessary to enable the Minister to make the decision.
- (4) If the Minister receives an application and any further information required under **subsection (3)**, the Minister must decide whether to extend the expiry date of the extant wastewater consent no later than 35 months after the commencement date. 5
- 139D Consent authority must update extant wastewater consent**
- The consent authority for an extant wastewater consent must, no later than 6 months after the commencement date, update the extant wastewater consent to record the extended expiry date under **section 139C** and any extended expiry date under **section 139CA**. 10
- 281 Section 168A amended (Notice of requirement by territorial authority)**
- (1) After section 168A(1AB), insert:
- (1AC) However, a territorial authority must not publicly notify a notice of requirement under this section if— 15
- (a) the requirement is for 1 or more activities; and
- (b) each activity requirement is the subject of an infrastructure design solution that precludes public notification.
- (2) After section 168A(3)(a)(iii), insert: 20
- (iiiia) an infrastructure design solution:
- 282 Section 169 amended (Further information, notification, submissions, and hearing for notice of requirement to territorial authority)**
- After section 169(1B), insert:
- (1C) However, a territorial authority must not publicly notify a notice of requirement under this section if— 25
- (a) the requirement is for 1 or more activities; and
- (b) each activity requirement is the subject of an infrastructure design solution that precludes public notification.
- 283 Section 171 amended (Recommendation by territorial authority)** 30
- (1) After section 171(1)(a)(iii), insert:
- (iiiia) an infrastructure design solution:
- (2) After section 171(2), insert:
- (2AAA) Despite subsection (2), if a notice of requirement relates to a wastewater network or a stormwater network (as those terms are defined in section 5 of the Water Services Act 2021), and an infrastructure design solution applies and is being relied upon, the territorial authority— 35

- (a) must not recommend any conditions that are contrary to the requirements of the relevant infrastructure design solution; and
- (b) must recommend that conditions are imposed on the designation that are no more or less restrictive ~~than that~~ is necessary to comply with the infrastructure design solution. 5
- 284 Section 174 amended (Appeals)**  
In section 174(4), after “section 171(1A)”, insert “and **(2AAA)**”.
- 285 Section 176A amended (Outline plan)**
- (1) Replace section 176A(4) with:
- (4) Within 20 working days after receiving the outline plan, the territorial authority— 10
- (a) may request the requiring authority to make changes to the outline plan; but
- (b) must not request a change that is inconsistent with an infrastructure design solution that the public work, project, or work relies on. 15
- (2) Replace section 176A(6) with:
- (6) In determining any such appeal, the Environment Court must consider whether the changes requested by the territorial authority—
- (a) will give effect to the purpose of this Act; and
- (b) will give effect to any infrastructure design solution that the public work, project, or work relies on. 20
- 285A Section 198E amended (Environment Court decides)**  
In section 198E(6)(a), after “section 171(1A)”, insert “and **(2AAA)**”.
- 285B Section 198K amended (Environment Court decides)**  
In section 198K(5)(a), after “section 171(1A)”, insert “and **(2AAA)**”. 25
- 286 Schedule 12 amended**  
In Schedule 12,—
- (a) insert the Part set out in **Schedule 9** of this Act as the last Part; and
- (b) make all necessary consequential amendments.
- Subpart 8—Amendments to Act previously called Taumata Arowai—the Water Services Regulator Act 2020 30
- 287 Principal Act**  
This subpart amends the Act that was previously called Taumata Arowai—the Water Services Regulator Act 2020.

**288 Title of principal Act changed**

In section 1, replace “Taumata Arowai—the Water Services Regulator” with “Water Services Authority—Taumata Arowai”.

**289 Section 4 amended (Interpretation)**

- (1) In section 4, insert in their appropriate alphabetical order: 5

**National Engineering Design Standards** means the NEDS under **subpart 1AA** of Part 3 ~~has the meaning set out in **section 97C**~~ of the Water Services Act 2021

**National Policy Statement for Freshwater Management** means the National Policy Statement for Freshwater Management issued in 2020 under section 52 10 of the Resource Management Act 1991 and any statement issued under that section that amends or replaces the 2020 statement

**network infrastructure** means any infrastructure and process that is a part of a drinking water network, a stormwater network, or a wastewater network

**shared domestic-drinking-water supplier** has the meaning ~~given by **set out in section 10(1)**~~ 15 of the Water Services Act 2021

**Water Services Authority** means the Water Services Authority—Taumata Arowai established by section 8

**water service provider** has the meaning ~~given by **set out in section 4**~~ of the 20 Local Government (Water Services) Act **2024**

- (2) In section 4, repeal the definitions of **domestic dwelling**, **Taumata Arowai**, and **Te Mana o te Wai**.

**290 Section 5 amended (Māori interests)**

- (1) Repeal section 5(a) and (b).  
 (2) Replace section 5(d) and (e) with: 25

(d) section 17(1) and **(2)** provides that the role of the Māori Advisory Group is to advise the board and the Water Services Authority on Māori interests and knowledge, from a Māori perspective and in accordance with the group’s terms of reference:

(e) section 17(3) requires the board to take the advice of the Māori Advisory Group into account: 30

- (3) Replace section 5(f)(ii) with:

(ii) partnering and engaging early and meaningfully with Māori, including to inform how the Water Services Authority can—

**(A\*)** take into account any relevant national direction issued 35 under Part 5 of the Resource Management Act 1991 and any regional plans (as defined in section 43AA of that Act) that relate to freshwater; and

(Bii) understand, support, and enable the exercise of mātauranga Māori, tikanga Māori, and kaitiakitanga:

**291 Section 10 amended (Objectives of Taumata Arowai)**

- (1) Repeal section 10(d).
- (2) After section 10(f), insert: 5
- (g) effectively develop and administer National Engineering Design Standards for the design, construction, and operational performance of network infrastructure used in land development.

**292 Section 11 amended (Functions of Taumata Arowai)**

- (1) After section 11(1)(d), insert: 10
- (e) develop and review the National Engineering Design Standards ~~and, for the purposes of the implementation of those standards, appoint product approvers and keep a register of approved products and product approvers;~~ and
- (2) After section 11(1)(f), insert: 15
- (fa) facilitate, promote, provide, or support education and training for domestic self-suppliers and shared domestic ~~drinking water~~ suppliers; and

**293 Section 12 amended (Board)**

Replace section 12(2) with:

- (2) The responsible Minister must appoint only people who, in the Minister’s opinion, have the appropriate knowledge, skills, and experience to assist the board to perform its role. 20

**294 Section 14 amended (Māori Advisory Group established)**

In section 14(2),—

- (a) replace “5” with “3”; and 25
- (b) replace “7” with “5”.

**295 Section 17 amended (Role of Further provisions relating to Māori Advisory Group)**

- (1) Replace section 17(2) with:
- (2) The Māori Advisory Group must provide advice under subsection (1)— 30
- (a) from a Māori perspective; and
- (b) within the terms of reference prepared and agreed under subsection (4)(b).
- (2) In section 17(3)(a), replace “have regard to” with “take into account”.
- (3) Repeal section 17(3)(b). 35

**296 Section 18 replaced (Operating principles)**

Replace section 18 with:

**18 Operating principles**

- (1) The Water Services Authority must ensure that its performance and delivery of its objectives, functions, and duties are guided and informed by the operating principles set out in **subsection (2)**. 5
- (2) The operating principles are—
- (a) building and maintaining credibility and integrity, so that the Water Services Authority is trusted by consumers, drinking water suppliers, wastewater network operators, stormwater network operators, water service providers, Māori, and government: 10
- (b) ensuring that the Water Services Authority has suitable expertise to build and maintain confidence in its capability as a regulator:
- (c) developing sector capability by promoting collaboration, education, and training: 15
- (d) partnering and engaging meaningfully with other people and organisations, including working proactively with drinking water suppliers, stormwater network operators, and wastewater network operators to ensure that regulatory compliance requirements ~~—take into account the risk profiles and capacities of the suppliers or operators:~~ 20
- (i) take into account the risk profiles of the suppliers or operators;  
and
- (ii) are proportionate to the abilities and capacities of the suppliers or operators:
- (e) partnering and engaging early and meaningfully with Māori, including to inform how the Water Services Authority can— 25
- (i) take into account—
- (A) any relevant national directions made under Part 5 of the Resource Management Act 1991; and
- (B) any regional plans prepared under the Resource Management Act 1991 that relate to freshwater: 30
- (ii) understand, support, and enable the exercise of mātauranga Māori, tikanga Māori, and kaitiakitanga:
- (f) ensuring that the Water Services Authority takes costs into account, including by— 35
- (i) taking suppliers' compliance costs into account while protecting and promoting public health outcomes relating to drinking water safety; and

<ul style="list-style-type: none"> <li style="margin-left: 40px;">(ii) maintaining a regulatory framework that is proportionate to the scale, complexity, and risk profile of the relevant water services and that takes into account the costs to consumers; and</li> <li style="margin-left: 40px;">(iii) considering compliance costs for mixed-use rural water schemes in the context of their circumstances, including their scale, complexity, and risk profile.</li> </ul>	5
(3) In this section, <b>mixed-use rural water scheme</b> has the meaning given by <b>section 13A</b> of the Water Services Act 2021.	
<b>297 Consequential amendments to principal Act and other enactments</b>	
(1) Amend the principal Act as set out in <b>Part 1 of Schedule 10</b> .	10
(2) Amend the Acts specified in <b>Part 2 of Schedule 10</b> as set out in that schedule.	
(3) Amend the secondary legislation specified in <b>Part 3 of Schedule 10</b> as set out in that schedule.	
<u>Subpart 8A—Amendment to Tax Administration Act 1994</u>	15
<b>297A Principal Act</b>	
<b>Section 297B</b> amends the Tax Administration Act 1994.	
<b>297B Section 32E amended (Applications for RWT-exempt status)</b>	
(1) In section 32E(2)(k), after “to CW 52.”, insert “ <b>CW 55BC.</b> ”.	
(2) <b>Subsection (1)</b> applies for the 2024–25 and later income years.	20
<u>Subpart 8B—Amendments to Waikato River legislation</u>	
<u><i>Amendments to Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010</i></u>	
<b>297C Principal Act</b>	
<b>Sections 297D and 297E</b> amend the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.	25
<b>297D Section 12 amended (Effect of vision and strategy on Resource Management Act 1991 planning documents)</b>	
(1) In the heading to section 12, replace “ <b>Resource Management Act 1991 planning documents</b> ” with “ <b>planning documents, environmental performance standards, and infrastructure design solutions</b> ”.	30
(2) After section 12(1)(c), insert:	
(d) <u>a wastewater environmental performance standard made under section 138 of the Water Services Act 2021; and</u>	

- (e) a stormwater environmental performance standard made under section 139A of the Water Services Act 2021; and
- (f) an infrastructure design solution made under **section 139B** of the Water Services Act 2021.
- (3) Replace section 12(4) and (5) with: 5
- (4) If a rule included in a regional or district plan for the purpose of giving effect to the vision and strategy is more stringent than a document listed in **subsection (5)**, the rule prevails over that document.
- (5) The documents are—
- (a) a national environmental standard made under section 43 of the Resource Management Act 1991: 10
- (b) a water conservation order made under section 214 of the Resource Management Act 1991:
- (c) a wastewater environmental performance standard made under section 138 of the Water Services Act 2021: 15
- (d) a stormwater environmental performance standard made under section 139A of the Water Services Act 2021:
- (e) an infrastructure design solution made under **section 139B** of the Water Services Act 2021.
- 297E Section 17 amended (Duty to have particular regard to vision and strategy)** 20
- Before section 17(10)(a), insert:
- (aaa) the Local Government (Water Services) Act **2024**; and
- Amendments to Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010* 25
- 297F Principal Act**
- Sections 297G and 297H** amend the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010.
- 297G Section 13 amended (Effect of vision and strategy on Resource Management Act 1991 planning documents)** 30
- (1) In the heading to section 13, replace “**Resource Management Act 1991 planning documents**” with “**planning documents, environmental performance standards, and infrastructure design solutions**”.
- (2) After section 13(1)(c), insert:
- (d) a wastewater environmental performance standard made under section 138 of the Water Services Act 2021; and 35

- (e) a stormwater environmental performance standard made under section 139A of the Water Services Act 2021; and
- (f) an infrastructure design solution made under **section 139B** of the Water Services Act 2021.
- (3) Replace section 13(4) and (5) with: 5
- (4) If a rule included in a regional or district plan for the purpose of giving effect to the vision and strategy is more stringent than a document listed in **subsection (5)**, the rule prevails over that document.
- (5) The documents are—
- (a) a national environmental standard made under section 43 of the Resource Management Act 1991; 10
- (b) a water conservation order made under section 214 of the Resource Management Act 1991;
- (c) a wastewater environmental performance standard made under section 138 of the Water Services Act 2021; 15
- (d) a stormwater environmental performance standard made under section 139A of the Water Services Act 2021;
- (e) an infrastructure design solution made under **section 139B** of the Water Services Act 2021.

**297H Section 18 amended (Duty to have particular regard to vision and strategy)** 20

Before section 18(10)(a), insert:

(aaa) the Local Government (Water Services) Act **2024**; and

Subpart 9—Amendments to Water Services Act 2021

**298 Principal Act** 25

This subpart amends the Water Services Act 2021.

**299 Section 5 amended (Interpretation)**

- (1) In section 5, repeal the definition of **council-controlled organisation**.
- (1A) In section 5, definition of **source**, **source water**, and **source of a drinking water supply**, after paragraph (a), insert: 30
- (aa) an open-air artificial watercourse from which water is abstracted for use in a drinking water supply (for example, an open-air irrigation canal, water supply race, canal for the supply of water for electricity generation, or farm drainage channel); and
- (2) In section 5, definition of **stormwater network**, paragraph (a)(ii)(A), replace “council-controlled organisation” with “water organisation” in each place. 35

- (3) In section 5, definition of **stormwater network operator**, paragraph (a)(i), replace “council-controlled organisation” with “water organisation” in each place.
- (4) In section 5, definition of **wastewater network**, paragraph (b)(i), replace “council-controlled organisation” with “water organisation” in each place. 5
- (5) In section 5, definition of **wastewater network operator**, paragraph (a)(i), replace “council-controlled organisation” with “water organisation” in each place.
- (6) In section 5, insert in their appropriate alphabetical order:
- mixed-use rural water scheme** has the meaning set out in **section 13A** 10
- National Engineering Design Standards and NEDS** means the National Engineering Design Standards set out in regulations
- ~~shared domestic drinking water supplier~~ has the meaning set out in **section 10**
- water organisation** has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024** 15
- 300 Section 8 amended (Meaning of drinking water supplier)**
- In section 8(e), after “domestic self-supplier”, insert “or a shared domestic ~~drinking water supplier~~”.
- 301 Section 9 amended (Meaning of drinking water supply)** 20
- (1) In section 9(1)(c), replace “or a domestic self-supply” with “, a domestic self-supply, or a shared domestic ~~drinking water supply~~”.
- (2) Replace section 9(2) with:
- (2) The Water Services Authority may, by notice in the *Gazette*, declare the provision of water by a person or a class of persons— 25
- (a) to be a drinking water supply if the Water Services Authority is satisfied, on reasonable grounds, that the water is or will be used as drinking water; or
- (b) not to be a drinking water supply if the Water Services Authority is satisfied, on reasonable grounds, that— 30
- (i) the water is not or will not be used as drinking water; ~~or and~~
- (ii) the person is a consumer, or the class of persons is a class of consumers; ~~or-~~
- (iii) the water is source water.
- (3) When deciding whether to make a declaration under **subsection (2)**, the Water Services Authority— 35
- (a) must take into account the main purpose of this Act (*see* section 3(1)); and

- (b) may take into account the extent of the infrastructure providing the water and the level of risk to consumers that would follow from making the declaration.
- (4) A declaration made under this section that applies to a class of persons is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 5

### 302 Section 10 replaced (Meaning of domestic self-supply and domestic dwelling)

Replace section 10, and the examples that follow that section, with:

- 10 Meaning of domestic self-supply and shared domestic ~~drinking water~~ supplier** 10
- (1) In this Act, unless the context otherwise requires,—
- domestic self-supply** means a stand-alone domestic dwelling that has its own supply of drinking water, and **domestic self-supplier** has a corresponding meaning 15
- ~~**shared domestic drinking water supplier** means a person (person A) who supplies drinking water through a drinking water supply to no more than 25 consumers who—~~
- ~~(a) are aware that person A supplies their drinking water; and~~
- ~~(b) reside in domestic dwellings on land in the vicinity of the land from which person A supplies the drinking water.~~ 20
- shared domestic supplier** means a person (**person A**) who—
- (a) supplies drinking water to no more than 25 consumers who reside in domestic dwellings located on—
- (i) the land from which person A supplies the drinking water; or 25
- (ii) any other land; and
- (b) is not a domestic self-supplier or a water carrier
- shared domestic ~~drinking water~~ supply** has a corresponding meaning to **shared domestic ~~drinking water~~ supplier**.
- (2) In this Act,— 30
- domestic dwelling** means a building that is used as a single household unit, whether it is—
- (a) tenanted on a long- or short-term basis; or
- (b) occupied permanently or temporarily (for example, a holiday home)
- household unit** has the meaning given to it by section 7(1) of the Building Act 2004. 35

**Examples**

A single property with tenants on a lease that is supplied by a rainwater tank is a domestic self-supply.

A single holiday house that is supplied by a rainwater tank and is rented to tourists on a short-term basis is a domestic self-supply. 5

A multi-dwelling building (for example, multiple separate apartments contained in a single building) that has its own bore water supply is not a domestic self-supply.

A marae wharekai (dining hall) or community hall that has its own river water supply is not a domestic self-supply.

A café building supplied by a rainwater tank is not a domestic self-supply. 10

A person who supplies a neighbouring school with drinking water is not a shared domestic ~~drinking water~~ supplier.

A person who supplies 40 homes on the same street with drinking water is not a shared domestic ~~drinking water~~ supplier.

~~A person who supplies 3 neighbouring homes with drinking water is a shared domestic drinking water supplier.~~ 15

A person who supplies a home and fruit packhouse on a neighbouring property is not a shared domestic supplier.

**303 New section 13A inserted (Meaning of mixed-use rural water scheme)**

After section 13, insert: 20

**13A Meaning of mixed-use rural water scheme**

In this Act, unless the context otherwise requires, **mixed-use rural water scheme** means—

(a) a water supply that meets the criteria for being a mixed-use rural water scheme that are specified in a drinking water acceptable solution issued under section 50; or 25

(b) if no drinking water acceptable solution has specified criteria for being a mixed-use rural water scheme, a drinking water supply that supplies water to consumers' properties and for which the following statements are true: 30

(i) no less than 50% of the water supplied is intended to be used for agricultural purposes or horticultural purposes, or both:

(ii) no more than 50% of the water supplied is intended to be used for domestic purposes (including for drinking water).

**304 Section 14 repealed (Te Mana o te Wai: meaning, application, effect)** 35

Repeal section 14.

**305 New section 19A inserted (Application to New Zealand Defence Force)**

After section 19, insert:

**19A Application to New Zealand Defence Force**

- (1) Despite section 19, this Act does not apply to the New Zealand Defence Force supplying water services if the Chief of Defence Force, or any other officer or person authorised by the Chief of Defence Force, has—
- (a) issued and promulgated a Defence Force Instruction; and 5
  - (b) provided a copy of the Instruction to the Water Services Authority.
- (1A) The Chief of Defence Force, or any other officer or person authorised by the Chief of Defence Force, must consult the Water Services Authority before issuing and promulgating a Defence Force Instruction under **subsection (1)**.
- (2) However, despite issuing and promulgating a Defence Force Instruction, the Chief of Defence Force must ensure that the supply of water services by the New Zealand Defence Force—
- (a) ~~to the extent reasonably practicable~~, complies with the requirements of this Act to the extent reasonably practicable; and 10
  - (b) is carried out in accordance with the Defence Force Instruction by— 15
    - (i) members of the New Zealand Defence Force; and
    - (ii) any other person.
- (3) The Chief of Defence Force, or any other officer or person authorised by the Chief of Defence Force, must, in consultation with the Water Services Authority, periodically review the requirements in the Defence Force Instruction for supplying ~~supplying~~ water services. 20
- (4) In this section, unless the context otherwise requires,—
- New Zealand Defence Force** means the New Zealand Defence Force constituted under the Defence Act 1990
- officer** has the same meaning as in section 2(1) of the Defence Act 1990. 25

**306 Section 29 amended (Duty of officers, employees, and agents to exercise due diligence)**

In section 29(3), replace “council-controlled organisation” with “water organisation” in each place.

**307 Section 30 amended (Owner must have drinking water safety plan) 30**

After section 30(1), insert:

- (1A) However, the owner of a drinking water supply is not required to prepare a drinking water safety plan if the drinking water supply supplies no more than 25 consumers.

**307A Section 32 amended (Taumata Arowai to review drinking water safety plans and monitor compliance) 35**

After section 32(2), insert:

- (3) For the purposes of performing its functions under subsection (1), the Water Services Authority may issue a written notice to a drinking water supplier requiring the supplier to provide the Water Services Authority with 1 or both of the following types of information:
- (a) a written statement as to whether the drinking water supplier has complied with a particular legislative requirement: 5
- (b) information that will enable the Water Services Authority to determine whether a particular legislative requirement has been complied with.
- (4) In addition to the information specified in **subsection (3)**, the Water Services Authority may require the drinking water supplier to provide a certificate to confirm that the information provided under this section is accurate and complete. 10
- (5) A certificate under **subsection (4)** must—
- (a) be in the form specified by the Water Services Authority; and
- (b) be signed by— 15
- (i) the drinking water supplier’s chief executive; or
- (ii) at least 1 board member or director of the drinking water supplier;  
or
- (iii) if the drinking water supplier has no board or director, a person occupying a position that is comparable to a board member or director. 20
- (6) The Water Services Authority may issue a written notice under **subsection (3)** only to a drinking water supplier that is—
- (a) a territorial authority; or
- (b) a water organisation; or 25
- (c) a government department; or
- (d) the New Zealand Defence Force.

**308 Section 35A amended (Notice to warn users of domestic self-supply about contamination)**

- (1) In the heading to section 35A, after “**domestic self-supply**”, insert “**or shared domestic ~~drinking water~~ supply**”. 30
- (2) Replace section 35A(1) with:
- (1) This section applies if a medical officer of health or the Water Services Authority believes that a source of water for domestic self-supply or for shared domestic ~~drinking water~~ supply is contaminated in a way that affects, or is likely to affect, that domestic self-supply or shared domestic ~~drinking water~~ supply. 35
- (3) Replace section 35A(2) with:

(2) The medical officer of health or the Water Services Authority may issue a notice to any local authority, water organisation, or subsidiary of a water organisation that is responsible for the area to which water is supplied from that source.

- (4) In section 35A(3),— 5
- (a) replace “council-controlled organisation” with “water organisation” in each place; and
- (b) in paragraph (a), after “domestic self-supply”, insert “or shared domestic ~~drinking water~~ supply”.

**308A Section 39 repealed (Review by Taumata Arowai)** 10

Repeal section 39.

**308B Section 40 amended (Taumata Arowai to monitor compliance with complaints process)**

In section 40(a), replace “this subpart” with “any regulations made under section 200”. 15

**308C New section 43A inserted (Source water risk management plans: additional provisions for water service providers)**

After section 43, insert:

**43A Source water risk management plans: additional provisions for water service providers** 20

(1) The source water risk management plan of a drinking water supplier that is also a water service provider must, in addition to complying with section 43, include a description of land—

- (a) that surrounds a source of a drinking water supply; or
- (b) that is— 25
- (i) a groundwater catchment from which drinking water is sourced; and
- (ii) land that the water service provider owns, has long-term control over, or has agreed with the land owner will be included in the plan. 30

(2) The source water risk management plan of a drinking water supplier that is also a water service provider may, for the purpose of managing risks to drinking water from a source described in **subsection (1)**, include—

- (a) if the water service provider is a territorial authority, a proposal that the territorial authority make a water services bylaw; or 35
- (b) if the water service provider is a water organisation, a recommendation that the relevant territorial authority in relation to the land make a water services bylaw.

- (3) A proposal or recommendation made under **subsection (2)** may be for a water services bylaw that restricts, imposes requirements on, or prohibits 1 or more of the following in the land described under **subsection (1)**:
- (a) access to the controlled drinking water catchment area:
  - (b) activities that may be undertaken in the controlled drinking water catchment area: 5
  - (c) the use or contamination of water in the controlled drinking water catchment area.
- (4) In this section, **water organisation, water service provider, and water services bylaw** have the same meanings as in **section 4** of the Local Government (Water Services) Act **2024**. 10
- 309 Section 50 amended (Acceptable solutions or verification methods for drinking water)**
- (1) In section 50(1), replace “Taumata Arowai may” with “The Water Services Authority must”. 15
- (2) ~~In section 50(2), replace “may” with “must”.~~
- 310 ~~Section 53 amended (Taumata Arowai consultation requirements)~~**
- ~~After section 53(1)(d), insert:~~
- (e) ~~regulations setting environmental performance standards under section 138 or 139A.~~ 20
- 311 Section 55 amended (Register of drinking water supplies)**
- In section 55(5), replace “12 months” with “5 years”.
- 312 Section 56 amended (Duty to renew annual registration and notify changes)**
- (1) In the heading to section 56, delete “**annual**”. 25
  - (2) In section 56(1), replace “12-month” with “5-year”.
- 313 Section 57 amended (General exemptions)**
- (1) After section 57(1)(g), insert:
    - (ga) to notify the Water Services Authority of a notifiable risk or hazard (*see* section 35): 30
  - (2) In section 57(2), replace “all” with “1 or more of”.
  - (3) Replace section 57(3) with:
    - (3) The chief executive may grant an exemption under this section—
      - (a) on the chief executive’s own volition; or
      - (b) after receiving an application for the exemption (which application must be accompanied by the prescribed fee, if any). 35

- (3A) However,—
- (a) the scope of the exemption must be no broader ~~than that~~ is reasonably necessary in the circumstances; and
  - (b) the chief executive must not grant an exemption on their own volition unless satisfied that the exemption is consistent with the ~~for a~~ purpose of general exemptions (*see section 57A*). 5

(4) In section 57(7), replace “5 years” with “15 years” in each place.

**314 New section 57A inserted (Purpose of general exemptions)**

After section 57, insert:

- 57A Purpose of ~~general~~ exemptions** 10
- The purpose of exemptions under sections ~~section 57~~ and 58 is to—
- (a) provide flexibility where compliance with the relevant requirement is impracticable, ~~impractical,~~ inefficient, unduly costly, or unduly burdensome, taking into account—
    - (i) the nature of the drinking water supply; or 15
    - (ii) the characteristics of the drinking water supplier or the class of drinking water suppliers; or
  - (b) allow for exemptions that are minor or technical.

**314A Section 58 amended (Exemption: residual disinfection)**

- (1) After section 58(3)(a), insert: 20
- (aa) satisfied that the exemption is consistent with the purpose of general exemptions (*see section 57A*); and
- (2) Replace section 58(4) with:
- (4) The chief executive may grant an exemption under this section—
- (a) on the chief executive’s own volition; or 25
  - (b) after receiving an application for the exemption (which application must be accompanied by the prescribed fee, if any).
- (4A) However, the scope of the exemption must be no broader than is reasonably necessary in the circumstances.
- (3) In section 58(5), replace “5 years” with “15 years” in each place. 30

**315 Section 59 amended (Taumata Arowai may declare drinking water emergency)**

- (1) In section 59(2)(b), after “domestic self-supplies”, insert “and shared domestic ~~drinking water~~ supplies”.
- (2) Replace section 59(3) with: 35

- (3) Before declaring a drinking water emergency or amending a drinking water emergency declaration, the Water Services Authority must—
- (a) consult the Minister; and
  - (b) to the extent practicable, consider the impact of the declaration or amendment on the operation of lifeline utilities.
- (3) After section 59(7), insert:
- (8) In this section, **lifeline utility** has the meaning set out in section 4 of the Civil Defence Emergency Management Act 2002.
- 316 Section 69 amended (Requirement for prescribed skills, qualifications, or experience in respect of drinking water supply or wastewater network)** 10
- In section 69, replace “or operate” with “design, operate, or carry out an activity relating to maintaining, repairing, upgrading, or renewing”.
- 317 Section 97 amended (Effect of appeal against compliance order)**
- Replace section 97(a) with:
- (a) while the order is the subject of an appeal or while the time for the person’s appeal rights is running, the chief executive whose compliance order is appealed against—
    - (i) may, if they receive new information that relates to the compliance order, revoke or amend the order; or
    - (ii) if **subparagraph (i)** does not apply, must not revoke or amend the order.
- 318 Part 3 heading amended**
- In the Part 3 heading, replace “**Enforcement**” with “**Standards, enforcement**”.
- 319 New subpart 1AA of Part 3 inserted** 25
- In Part 3, before subpart 1, insert:
- Subpart 1AA—National Engineering Design Standards (NEDS) for water networks
- ~~Preliminary Purpose, definitions, etc~~*
- 97A ~~Purposes~~ Outline of this subpart** 30
- ~~The purposes of this~~ This subpart are—
- (a) ~~to provide~~ provides for the development, making, and ongoing review of the National Engineering Design Standards (the **NEDS**) that contain performance-based requirements relating to the water services infrastructure

~~that makes up a water services network to replace standards issued by local authorities; and~~

~~(b) to require water service providers to ensure compliance with NEDS in specified circumstances; and~~

(ba) provides for compliance with the NEDS by—

(i) water service providers; and

(ii) persons who intend to transfer ownership of water services infrastructure and processes to a water service provider, or to connect water services infrastructure and processes to a water services network; and

~~(e) to allow water service providers and other product approvers to approve, by reference to the NEDS, products for use in design, construction, connection, and operation; and~~

(ca) provides for national codes of practice that may be used to comply with the NEDS; and

~~(d) to allow~~allows water service providers to ~~facilitate the implementation of solutions that are alternatives to compliance~~approve alternative ways of complying with the NEDS.

### 97B Purpose of NEDS

The purpose of the ~~NEDS National Engineering Design Standards~~ is to provide ~~mandatory technical standards for~~for national consistency in the design, construction, and operational performance of ~~the infrastructure and processes that make up the drinking water, stormwater, and wastewater~~water services networks owned or operated by water service providers, including by—

(a) promoting the efficient and financially sustainable operation of those networks; and

(b) improving the networks' reliability and resilience; and

(c) protecting public health and safety; and

(d) contributing to the continuous improvement of water services.

### 97C Interpretation

In this subpart, unless the context otherwise requires,—

~~**approved product** means an item, or 2 or more connected items, of water services infrastructure and processes approved by a product approver under **section 97Q**~~

~~**alternative solution** means an alternative process or approach~~a way of complying with the NEDS that is approved by a water service provider under ~~section 97Q~~ **section 97M** as an alternative to complying with the national codes of practice

~~developer—~~

- ~~(a) means a developer within the meaning of Local Government Act 2002 who designs or constructs water services infrastructure and processes as a part of their land development activities; but~~
- ~~(b) does not include a water service provider~~

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~~infrastructure, in relation to a water services network, has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**~~

~~**national code of practice** means a national code of practice made by the Water Services Authority under **section 97HB**~~

~~**National Engineering Design Standards** and **NEDS** means the National Engineering Design Standards set out in regulations~~

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~~product approver means—~~

- ~~(a) a water service provider; or~~
- ~~(b) a person or body appointed by the Water Services Authority under **section 97F**~~

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~~stormwater network has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**~~

~~wastewater network has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**~~

~~**water services infrastructure** has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**~~

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~~water services network means 1 or more of the following:~~

- ~~(a) a water supply network;~~
- ~~(b) a stormwater network;~~
- ~~(c) a wastewater network~~

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~~water service provider has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**~~

~~water supply network has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**.~~

*Development and making of NEDS*

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**97D Water Services Authority to develop NEDS**

- (1) The Water Services Authority ~~may~~ must develop the NEDS for the purposes of this ~~subpart Act~~.
- (2) The NEDS must contain—
  - (a) ~~standards for~~ performance-based requirements for the design, construction, and operational performance of the infrastructure and processes that make up water services networks owned or operated by water service

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- providers, including water services infrastructure that is proposed to be transferred to a water service provider; and
- (b) ~~requirements about the design and construction of infrastructure and processes proposed to be transferred; and~~
- (c) requirements about how water services infrastructure and processes are 5  
~~is~~ to be connected to a water services network; and
- (ca) requirements for the repair, upgrade, renewal, replacement, maintenance, and decommissioning of water services infrastructure and processes that make up water services networks; and
- (d) requirements about ~~the sharing of~~ how information about the design, 10  
construction, and operational performance of infrastructure and processes, ~~including~~ should be—
- (i) collected and kept; and
- (ii) given to other persons, including water service providers, the Water Services Authority, and the Commerce Commission. 15
- (i) ~~when a person must give information to another person; and~~
- (ii) ~~the sharing of information by specified classes of persons (for example, by developers with the relevant water service provider); and~~
- (e) ~~standards for the information referred to in paragraph (d), including—~~ 20
- (i) ~~the quality of information; and~~
- (ii) ~~the consistency of information used more widely, including nationally.~~
- (3) ~~The NEDS—~~
- (a) ~~must be focused on outcomes; and~~ 25
- (b) ~~may include—~~
- (i) ~~minimum standards; and~~
- (ii) ~~performance based requirements; and~~
- (iii) ~~requirements to use specified methods or approaches (for example, a specified method of calculation).~~ 30
- (3A) The NEDS may include a requirement to use a specified method to determine whether performance-based requirements have been met.
- (3B) The requirements in the NEDS—
- (a) must specify the type of water services network to which they apply; and
- (b) may apply to classes of types of water services infrastructure and processes. 35
- (4) ~~The standards and~~ In addition, the requirements in the NEDS may vary in their application to different regions or districts if variations between those regions

or districts (for example, geographic, climatic, and geological variations) impact the performance of water services infrastructure and processes.

**97E Draft NEDS: technical review**

- (1) ~~The Water Services Authority must have a draft of the proposed NEDS examined by—~~ 5
- (a) ~~giving the draft to a central government agency responsible for providing advice and guidance on infrastructure and any other person or body the Authority considers appropriate (review bodies); and~~
  - (b) ~~asking the review bodies to carry out a technical review of the draft; and~~
  - (c) ~~considering comments made by any review body; and~~ 10
  - (d) ~~amending the draft as the Authority considers appropriate; and~~
  - (e) ~~giving the review body reasons why any comment it made was not incorporated into the draft.~~
- (2) ~~The review process must be carried out in accordance with the regulations.~~

**97F Draft NEDS: consultation** 15

- (1) ~~After making all appropriate amendments to the draft of the proposed NEDS after the review process, the~~ Before making a recommendation under **section 97G**, the Water Services Authority must consult the following ~~persons and bodies~~ in relation to ~~the~~ a draft of the proposed NEDS:
- (a) ~~the general public;~~ 20
  - (b) water service providers;
  - (c) water services industry representative bodies;
  - (d) the Commerce Commission;
  - (e) any central government agency that is responsible for providing advice and guidance on infrastructure and processes and that the Authority considers appropriate. 25
- (1A) Consultation must include—
- (a) adequate and appropriate notice of the content of the draft NEDS; and
  - (b) a reasonable opportunity for the entities listed in **subsection (1)** to make submissions; and 30
  - (c) appropriate consideration of any submissions received.
- (1B) However, the Water Services Authority need not consult the entities listed in **subsection (1)** if it is satisfied that a proposed amendment to the NEDS—
- (a) needs to be made—
    - (i) urgently; or 35
    - (ii) to deal with transitional issues; or

	<u>(b) is minor and will not adversely and substantially affect the interest of any person.</u>	
(2)	<del>The Authority must—</del>	
	(a) <del>give those persons and bodies—</del>	
	(i) <del>adequate and appropriate notice (including adequate and appropriate public notice) of the content of the proposal; and</del>	5
	(ii) <del>a reasonable opportunity for interested members of the public and the persons and bodies referred to in <b>subsection (1)(b) to (c)</b> to make submissions; and</del>	
	(b) <del>give appropriate consideration to all submissions received.</del>	10
<b>97G</b>	<b>Water Services Authority recommends NEDS to Minister</b>	
	On completing the development of the NEDS, including <del>the technical examination and</del> the consultation process, the Water Services Authority may recommend to the Minister that the NEDS be issued by regulations made under section 200.	15
<b>97H</b>	<b>Ongoing review of NEDS</b>	
(1)	The Water Services Authority—	
	(a) may review and update the NEDS at any time; but	
	(b) must review and update <u>the NEDS</u> <del>at</del> at least every 10 years.	
(2)	<b>Sections 97D to 97G</b> apply, with all necessary modifications, to a review and update of the NEDS.	20
(3)	Despite <b>subsection (2)</b> , the Authority is not required to consult on the draft of a proposed update to the NEDS under <b>section 97F</b> if the proposed update—	
	(a) needs to be made urgently; or	25
	(b) contains only minor amendments that will not adversely and substantially affect any person's interests.	
	<i><u>National codes of practice</u></i>	
<b>97HA</b>	<b><u>Effect of national codes of practice</u></b>	
(1)	<u>This section and <b>sections 97HB and 97HC</b> provide for national codes of practice as means by which water service providers and others may comply with the NEDS.</u>	30
(2)	<u>For the purposes of complying with the NEDS, a water service provider and any other person with a duty under this subpart—</u>	
	(a) <u>may, but is not required to, act in accordance with a national code of practice; and</u>	35

- (b) who acts in accordance with a national code of practice must be treated as having complied with the NEDS requirement to which the code relates.

**97HB National codes of practice**

- (1) The Water Services Authority may, by notice published in the *Gazette*, make national codes of practice for the purposes of this Act. 5
- (2) A national code of practice provides a means of compliance with 1 or more requirements in the NEDS and may contain any matter for that purpose, including the following:
- (a) technical specifications and standards for the design, construction, and operational performance of 1 or more types or classes of water services infrastructure and processes that make up a water services network owned or operated, wholly or partly, by a water service provider: 10
- (b) detailed specifications and standards for the design and construction of water services infrastructure and processes the ownership of which is proposed to be transferred to a water service provider: 15
- (c) detailed specifications, standards, and steps for connecting water services infrastructure and processes to a water services network:
- (d) detailed specifications, standards, and steps for the repair, upgrade, renewal, maintenance, and decommissioning of water services infrastructure and processes: 20
- (e) detailed steps and standards concerning how information about the design, construction, and operational performance of water services infrastructure and processes is to be collected, kept, and given to other persons: 25
- (f) any other detailed specifications, standards, and steps relating to the design, construction, and operational performance of water services infrastructure and processes.
- (3) A national code of practice may also contain warnings that specified water services infrastructure and processes, either in isolation or when used with other specified water services infrastructure and processes, do not comply with the NEDS. 30
- (4) The provisions of a national code of practice—
- (a) must specify the NEDS requirements to which they apply; and
- (b) must specify the type of water services network to which they apply; and 35
- (c) may apply to classes of types of water services infrastructure and processes; and
- (d) may vary in their application to different regions or districts.

- (5) National codes of practice made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

#### **97HC Preparation of national codes of practice**

When preparing a national code of practice, the Water Services Authority must undertake consultation with the same persons and bodies, and by the same method, as it must consult under **section 97F** when preparing the NEDS.

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*Water service providers ensure compliance with NEDS*

#### **97I Vesting in water service providers**

- (1) A water service provider must not accept a transfer of ownership of water services infrastructure from any person a developer unless the infrastructure and processes ~~meets~~ meet the design, construction, and operational performance requirements ~~standards~~ in the NEDS. 10
- (2) A water service provider is not required to accept a transfer of ownership of infrastructure that ~~meets~~ meet the requirements ~~design, construction, and operational performance standards~~ in the NEDS. 15

#### **97J Connecting infrastructure to network**

- (1) A water service provider must not connect, or allow any other person to connect, water services infrastructure and processes to a water services network for which the provider is responsible unless— 20
- (a) the infrastructure and processes meet the design, construction, and operational performance requirements ~~standards~~ in the NEDS; and
- (b) the connection is made in accordance with connection requirements in the NEDS; ~~and~~;
- (c) the connection is made in accordance with any applicable water services bylaw. 25
- (2) A water service provider is not required to make or allow a connection that satisfies **subsection (1)(a) or (b)**.

#### **97K Construction of infrastructure**

A water service provider must ensure that water services infrastructure and processes that it constructs ~~meet the design and construction standards in~~ complies with the NEDS. 30

#### **97L Repair, replacement, maintenance, decommissioning, etc, of infrastructure**

- (1) ~~This section applies to a~~ A water service provider that is carrying out work repairing, upgrading, replacing, renewing, maintaining, or decommissioning the whole or any part of any water services infrastructure and processes must comply with the NEDS. 35

~~(2) The provider must carry out the work in a way that meets the relevant standards in the NEDS.~~

(3) This section does not apply to work that—

(a) is necessary or desirable for the continued operation of the relevant infrastructure and processes; ~~and but~~

(b) does not significantly alter the capacity, efficiency, security, or safety of the infrastructure and processes (for example, because the work is minor or isolated).

### *Alternative solutions*

**97M Water service provider may ~~implement approved~~ approve alternative solution**

(1) Despite **sections 97I(1), 97J(1), 97K, and 97L**, a water service provider may take or allow an action to which any of those sections applies in accordance with ~~an alternative~~ a solution that the provider approves ~~under section 97N~~ as an alternative to acting in accordance with a relevant national code of practice.

(2) An alternative solution approved under this section must—

(a) involve full compliance with the NEDS; and

(b) be consistent with any applicable water services bylaw.

(3) A water service provider may approve an alternative solution—

(a) on its own initiative; or

(b) on application.

**~~97N Proposed alternative solution~~**

(1) ~~A water service provider may, on application, consider a proposed method or approach (alternative solution) to a matter provided for in section 97I(1), 97J(1), 97K, or 97L that does not involve full compliance with the NEDS.~~

(2) ~~A proposed solution may relate to any matter to which the NEDS applies, including—~~

(a) ~~design or construction specifications; and~~

(b) ~~methods of construction, maintenance, repair, upgrade, renewal, and decommissioning; and~~

(c) ~~products that are not approved products.~~

(3) ~~An application must contain all information necessary for the provider to approve the proposed alternative solution.~~

(4) ~~The provider may ask the applicant to provide additional information within a specified time.~~

- (5) ~~If the applicant does not provide the additional information within the specified time, the provider may decide the application on the basis of the information that accompanied the application.~~

**97O Approval decision and notification**

- (1) ~~The water service provider may approve a proposed alternative solution if it is satisfied that the solution will result in operational performance that is equivalent to, or better than, the performance that would be achieved by full compliance with the NEDS.~~ 5
- (2) ~~A provider must not approve an alternative solution that may result in the relevant infrastructure and processes not meeting relevant operational performance standards in the NEDS.~~ 10
- (3) ~~A provider may approve a proposed alternative solution with modifications or conditions that the provider considers appropriate.~~
- (4) ~~The provider must notify the applicant of the provider's decision as soon as practicable.~~ 15
- (5) ~~The notification must include the provider's reasons for its decision if that decision is—~~
- (a) ~~to approve the proposed alternative solution with modifications or conditions; or~~
- (b) ~~to refuse to approve the proposed alternative solution.~~ 20

*Approved products and approval bodies*

**97P Effect of approved products: compliance with NEDS duties**

~~A water service provider is taken to comply with sections 97I(4), 97J(4), 97K, and 97L if, and to the extent that, the relevant water services infrastructure and processes consist of 1 or more approved products.~~ 25

**97Q Approval of products**

- (1) ~~A product approver may consider a product for approval for the purposes of this subpart.~~
- (2) ~~A product approver may approve a product if the approver—~~ 30
- (a) ~~has evaluated the product against the relevant operational performance standards in the NEDS; and~~
- (b) ~~is satisfied that the product meets those standards.~~
- (3) ~~If a product is approved,—~~
- (a) ~~the approver must notify the Water Services Authority of the approval; and~~ 35
- (b) ~~the Authority must register the approved product.~~

- (4) ~~If an approval does not relate to the use of the product throughout New Zealand, the notification under **subsection (3)(a)** must specify those regions or districts in New Zealand for which the product is approved.~~

**97R Review of approved product**

- (1) ~~If an amendment to the NEDS includes a material change to operational performance standards, a product approver must review all of the affected products they have approved.~~ 5
- (2) ~~If an approved product no longer meets relevant operational performance standards in the NEDS,—~~
- (a) ~~the approver must—~~ 10
- (i) ~~suspend or cancel the product's approval, as appropriate; and~~
- (ii) ~~notify the Water Services Authority of the suspension or cancellation; and~~
- (b) ~~the Authority must register the suspension or cancellation of the approval.~~ 15

**97S Fees**

- (1) ~~A product approver may charge fees under this section for the performance of their functions.~~
- (2) ~~If a person applies for the approval of a product, a fee may be charged for—~~ 20
- (a) ~~the application; and~~
- (b) ~~the evaluation of the product under **section 97Q**; and~~
- (c) ~~any review of the product under **section 97R**.~~
- (3) ~~The Water Services Authority must develop a scale of fees for the Minister's consideration for the purpose of recommending regulations under **section 200(1)(ca)(iii)**.~~ 25
- (4) ~~The amounts of fees that may be charged are those prescribed in regulations under this Act.~~

**97T Product approvers**

- (1) ~~The Water Services Authority may appoint a person or body as a product approver for the purposes of this subpart.~~ 30
- (2) ~~On appointing a product approver, the Authority must register the product approver.~~

**97U Criteria for appointment of product approvers**

- (1) ~~The Water Services Authority must, by notice,—~~
- (a) ~~set criteria for the appointment of product approvers; and~~ 35

<p>(b) <del>specify any other matters it considers appropriate in relation to the appointment of product approvers.</del></p> <p>(2) <del>A notice under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).</del></p> <p><b>97V NEDS register</b></p> <p>(1) <del>The Water Services Authority must keep and maintain a register of—</del></p> <p style="padding-left: 20px;">(a) <del>approved products; and</del></p> <p style="padding-left: 20px;">(b) <del>product approvers.</del></p> <p>(2) <del>The Authority must ensure that the details in the register are up to date.</del></p> <p>(3) <del>The Authority must also keep a publicly available version of the register that contains the following information in relation to each approved product:</del></p> <p style="padding-left: 20px;">(a) <del>its name and description;</del></p> <p style="padding-left: 20px;">(b) <del>the name of its supplier;</del></p> <p style="padding-left: 20px;">(c) <del>any conditions to which its approval is subject.</del></p> <p>(4) <del>The Authority must publish the publicly available version of the register on an internet site that is maintained by or on behalf of the Authority and accessible free of charge.</del></p>	<p></p> <p></p> <p>5</p> <p></p> <p></p> <p></p> <p>10</p> <p></p> <p></p> <p>15</p>
<p><b>320 Cross-heading above section 107 amended</b></p> <p>In the cross-heading above section 107, after “<i>samples</i>”, insert “<i>and to conduct inquiries or inspections</i>”.</p>	<p></p> <p>20</p>
<p><b>321 Section 107 amended (Power to take and test samples)</b></p> <p>In the heading to section 107, after “<b>samples</b>”, insert “<b>and to conduct inquiries or inspections</b>”.</p>	<p></p> <p></p>
<p><b>322 Section 108 amended (Power to obtain information)</b></p> <p>After section 108(4), insert:</p>	<p></p> <p>25</p>
<p>(5) A compliance officer may use their power of entry and inspection under section 111 to obtain information under this section.</p>	<p></p>
<p><b>323 Section 111 amended (Powers of entry and inspection)</b></p> <p>(1) In section 111(2)(c)(d), after “section 107”, insert “or 108”.</p> <p>(2) Replace <u>section 111(4)</u> <del>subsection (4)</del> with:</p> <p>(4) The places are—</p> <p style="padding-left: 20px;">(a) any area where infrastructure and processes are used to collect, treat, or transmit drinking water for supply to consumers, including—</p> <p style="padding-left: 40px;">(i) the point of supply;</p> <p style="padding-left: 40px;">(ii) any end-point treatment device:</p>	<p></p> <p></p> <p>30</p> <p></p> <p></p> <p></p> <p></p> <p>35</p>

- (iii) any backflow prevention device; and
- (b) when exercising the powers in section 108, any premises of a local authority or a water organisation that are relevant to a compliance officer's powers under section 108.

**324 Section 120 amended (Power to issue compliance order)** 5

After section 120(1)(b), insert:

- (c) requiring that person—
  - (i) to stop, or prohibiting that person from starting, anything done or to be done that the chief executive believes, on reasonable grounds, contravenes any of **sections 97I to 97L**; or 10
  - (ii) to do something that the chief executive believes, on reasonable grounds, will ensure compliance with any of those provisions.

**324A New subpart 4A of Part 3 inserted**

After section 129, insert:

**Subpart 4A—Chief executive statements** 15

**129A Chief executive statement relating to drinking water supply**

- (1) The chief executive may issue a statement advising that a drinking water supply may be unsafe, and the measures that consumers should take as a result.
- (2) A statement may be made to specific consumers of a drinking water supply or to the general public. 20
- (3) The chief executive may issue a statement only if satisfied on reasonable grounds that—
  - (a) the drinking water is or may be unsafe; or
  - (b) the drinking water does not comply with drinking water standards; or
  - (c) it is necessary to issue a statement to prevent, reduce, or remove a serious risk to public health arising from the drinking water. 25
- (4) This statement is protected by qualified privilege.
- (5) This section does not limit—
  - (a) any other enactment or rule of law; and
  - (b) the functions, duties, or powers of the chief executive or of any other person or body. 30

**325 Section 130 amended (Chief executive may accept enforceable undertakings)**

- (1) After section 130(1), insert:

- (1A) However, the chief executive may refuse to accept the enforceable undertaking under subsection (1) if it does not provide for the person giving the undertaking to reimburse any costs and expenses incurred by the chief executive in relation to—
- (a) the undertaking; or 5
  - (b) the contravention or alleged contravention.
- (2) After section 130(3), insert:
- (4) For the purposes of **subsection (1A)**, the costs and expenses of the chief executive include any costs or expenses incurred by, or in relation to, an employee, an agent, or a contractor of the Water Services Authority. 10
- 326 Section 136 amended (Drinking water compliance, monitoring, and enforcement strategy)**
- After section 136(6), insert:
- (6A) Without limiting subsection (6), the strategy must include information about how the Authority’s intended approach applies to a mixed-use rural water scheme. 15
- 327 Section 137 amended (Taumata Arowai to publish annual drinking water regulation report)**
- (1) In section 137(1), replace “before 1 July in each year” with “on an annual basis”. 20
- (2) Repeal section 137(1)(e) and (g).
- (3) After section 137(1), insert:
- (1A) A report prepared under subsection (1) may, without limitation, also report on—
- (a) capability among drinking water suppliers and across the wider water services sector; and 25
  - (b) the extent to which this Act is meeting its main purpose.
- (1BA) The report must also include commentary on mixed-use rural water schemes in relation to those of the topics set out in subsection (1) that are relevant to mixed-use rural water schemes. 30
- 328 Section 138 amended (Wastewater environmental performance standards)**
- (1) Replace section 138(1) with:
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, and following consultation undertaken by the Water Services Authority ~~in accordance with section 53~~ with ~~each~~ wastewater network operator ~~operator~~, regional councils ~~council~~, and any other person the Authority considers appropriate, make regulations to set wastewater environmental performance standards, including standards that relate to— 35

- (a) discharges to air, water, or land:
- (b) biosolids and any other by-products from wastewater:
- (c) energy use:
- (d) waste that is introduced by a third party into a wastewater network (for example, trade waste). 5
- (2) After section 138(2), insert:
- (2A) A wastewater environmental performance standard may specify—
- (a) circumstances in which part or all of the wastewater environmental performance standard does not apply:
- (b) the activity status under the Resource Management Act 1991 that an activity will have if it is performed in accordance with the standard: 10
- (c) the activities controlled by the standard for which the consent authority—
- (i) is precluded from giving public notification of an application for a resource consent: 15
- (ii) is precluded from giving limited notification of an application for a resource consent:
- (d) a period during which—
- (i) existing wastewater infrastructure must be upgraded to meet the standard; or 20
- (ii) new wastewater infrastructure must be built to meet the standard:
- (e) that a discharge consent for existing or new wastewater infrastructure must include a condition requiring the infrastructure to be upgraded or built within the specified period.
- (3) Repeal section 138(3A) and (3B). 25
- (4) In section 138(4), replace “Wastewater environmental performance standards” with “Regulations”.
- 329 Section 138A repealed (Repeal of provisions relating to National Policy Statement for Freshwater Management)**
- Repeal section 138A. 30
- 330 Section 139A amended (Stormwater environmental performance standards)**
- (1) Replace section 139A(1) with:
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, and following consultation undertaken by the Water Services Authority ~~in accordance with section 53~~ with ~~each~~ stormwater network operators ~~operator~~, regional councils ~~council~~, and any other person the Authority 35

- considers appropriate, make regulations to set stormwater environmental performance standards, including standards relating to—
- (a) the environmental performance of ~~the~~ stormwater networks ~~network~~, including the quality and quantity of stormwater:
  - (b) inundation of ~~people and~~ property as a result of the performance of the stormwater networks: 5
  - (c) discharges to air, water, or land.
- (2) After section 139A(3), insert:
- ~~(3A) The Water Services Authority is responsible for overseeing the implementation of the stormwater environmental performance standards made under this section.~~ 10
- (3B) A stormwater environmental performance standard may specify—
- (a) circumstances in which part or all of the stormwater environmental performance standard does not apply:
  - (b) the activity status under the Resource Management Act 1991 that an activity will have if it is performed in accordance with the standard: 15
  - (c) the activities controlled by the standard for which the consent authority—
    - (i) is precluded from giving public notification of an application for a resource consent: 20
    - (ii) is precluded from giving limited notification of an application for a resource consent:
  - (d) a period during which—
    - (i) existing stormwater infrastructure must be upgraded to meet the standard; or 25
    - (ii) new stormwater infrastructure must be built to meet the standard:
  - (e) that a discharge consent for existing or new stormwater infrastructure must include a condition requiring the infrastructure to be upgraded or built within the specified period.
- (3) In section 139A(4), replace “Stormwater environmental performance standards” with “Regulations”. 30

### 331 New subpart Part 7B of Part 3 inserted

After section 139A, insert:

#### Subpart 7B—Infrastructure design solutions

- 139B Infrastructure design solutions** 35
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, and following consultation undertaken by the Water Services

- Authority ~~in accordance with section 53~~ with ~~each~~ stormwater network ~~operators~~ operator, wastewater network ~~operators~~ operator, regional ~~councils~~ council, ~~mana whenua~~, and any other person it considers appropriate, make regulations to set infrastructure design solutions that set the following matters for wastewater and stormwater infrastructure: 5
- (a) technical performance standards:
  - (b) treatment processes:
  - (c) design requirements:
  - (d) operating requirements.
- (2) An infrastructure design solution set by regulations under **subsection (1)** may— 10
- (a) specify any or all resource consent requirements for wastewater or stormwater infrastructure:
  - (b) identify circumstances in which a person must not rely on part or all of the infrastructure design solution: 15
  - (c) specify the activity status under the Resource Management Act 1991 of some or all of the activities that are included in the infrastructure design solution:
  - (d) identify whether, in respect of the activities included in the design solution, the consent authority is precluded from giving either or both of the following:— 20
    - (i) ~~is precluded from giving~~ public notification of an application for a resource consent;‡
    - (ii) ~~is precluded from giving~~ limited notification of an application for a resource consent. 25
- (3) Compliance with an infrastructure design solution is not mandatory.
- (4) However, if wastewater or stormwater infrastructure complies with an infrastructure design solution, it is deemed to meet the relevant environmental performance standard.
- (5) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 30

### 332 Section 140 amended (Interpretation)

- (1) In section 140, definition of **drinking water network**, paragraph (a), replace “council-controlled organisation” with “water organisation” in each place.
- (2) In section 140, definition of **drinking water network operator**, paragraph (a)(i), replace “council-controlled organisation” with “water organisation” in each place. 35

**333 Section 142 amended (Collection of information for monitoring and reporting on environmental performance)**

Replace section 142(2) with:

- (2) Any person required to provide information under subsection (1) must provide the information to the Water Services Authority in accordance with— 5
- (a) regulations made under section 200; or
  - (b) if no applicable regulations have been made under section 200, any requirements specified by the Water Services Authority.

**334 Section 144 amended (Network registers)**

- (1) In section 144(1), replace “Taumata Arowai must” with “For the purposes of monitoring and reporting under section 141, the Water Services Authority may”. 10
- (2) In section 144(4), replace “the registers” with “any registers”.
- (3) After section 144(4), insert:
- (5) Despite subsection (1), the Water Services Authority may exclude a wastewater network, a class of wastewater networks, ~~or a stormwater network,~~ or a class of stormwater networks from the relevant register if it considers the network or class of networks need not be included. 15
- (6) ~~The Water Services Authority must make publicly available, on an internet site maintained by or on behalf of the Authority,—~~ 20
- (a) ~~a list of each network (if any) that the Authority decides to exclude from a register; and~~
  - (b) ~~for each excluded network, the reasons for the exclusion.~~

**335 Section 146 amended (Record-keeping requirements for monitoring and reporting purposes)** 25

- (1) ~~After section 146(1)(d), insert:~~
- (e) ~~standards and requirements of the National Engineering Design Standards.~~
- (1A) After section 146(2), insert:
- (2A) For the purpose of ensuring a network operator complies with subsection (1), the Water Services Authority may require the network operator to provide the Water Services Authority with 1 or both of the following types of information: 30
- (a) a written statement as to whether the network operator has complied with subsection (1):
  - (b) information that will enable the Water Services Authority to determine whether the network operator has complied with subsection (1). 35
- (2B) In addition to the information specified in **subsection (2A)**, the Water Services Authority may require the network operator to provide a certificate to

- confirm that the information provided under this section is accurate and complete.
- (2C) A certificate under **subsection (2B)** must—
- (a) be in the form specified by the Water Services Authority; and
  - (b) be signed by—
    - (i) the network operator’s chief executive; or
    - (ii) at least 1 board member or director of the network operator; or
    - (iii) if the network operator has no board or director, a person occupying a position that is comparable to a board member or director.
- (2D) The Water Services Authority may require information to be provided under **subsection (2A)** only if the network operator is—
- (a) a territorial authority; or
  - (b) a water organisation; or
  - (c) a government department; or
  - (d) the New Zealand Defence Force.
- (1B) In section 146(3), replace “this section” with “subsection (1)”.
- (2) After section 146(3), insert:
- (3A) In this section, ~~for the purposes of **subsection (1)(c)**, —~~  
~~**National Engineering Design Standards** has the meaning set out in **section 97C**~~  
**network** means a water supply network, a stormwater network, or a wastewater network within the meaning of **section 97C**  
**network operator** means a water service provider that operates the whole or any part of a network  
**territorial authority** has the meaning set out in section 5(1) of the Local Government Act 2002  
**water service provider** has the meaning set out in **section 4** of the Local Government (Water Services) Act **2024**.
- 336 Section 147 amended (Annual reporting on networks)**
- (1) ~~In section 147(1)(b), after “consent”, insert “other than standards and requirements referred to in **paragraph (ea)**”.~~
- (2) ~~After section 147(1)(c), insert:~~  
~~(ea) the extent to which networks are complying with applicable standards or requirements of the National Engineering Design Standards; and~~
- (2A) Repeal section 147(1)(d)(i) and (e).
- (3) After section 147(2), insert:
- (3) A report prepared under subsection (1) may also, without limitation, —

- (a) report on best practices for networks, including examples of best practices; and
- (b) include recommendations for any actions that might be taken to address matters raised in the report.
- (3) ~~In this section, for the purposes of **subsection (1)(ca)**, —~~ 5  
~~**National Engineering Design Standards** has the meaning set out in **section 97G**~~  
~~**network** means a water supply network, a stormwater network, or a wastewater network within the meaning of **section 97G**.~~
- 337 Section 149 amended (Interpretation)** 10  
 In section 149, definition of **infringement offence**, paragraph (b), replace “regulations” with “secondary legislation”.
- 338 Section 200 amended (Regulations)**  
 (1) After section 200(1)(c), insert:  
 (ca) prescribing, ~~the following~~ for the purposes of **subpart 1AA of Part 3**, the National Engineering Design Standards (NEDS) developed or updated by the Water Services Authority: 15  
 (i) ~~the National Engineering Design Standards (NEDS) developed or updated by the Water Services Authority;~~  
 (ii) ~~the process to be followed by the Authority and review bodies for the purposes of the technical review of a draft of proposed NEDS under **section 97E**;~~ 20  
 (iii) ~~fees to be charged by a product approver for the matters referred to in **section 97G**;~~  
 (cb) prescribing matters relating to the following: 25  
 (i) wastewater environmental performance standards;  
 (ii) stormwater environmental performance standards;  
 (iii) infrastructure design solutions;
- (1A) In section 200(1)(g), after “in or under”, insert “any legislative requirement made under”. 30
- (2) After section 200(1), insert:  
 (1A) Regulations under **subsection (1)(ca)(i)** may prescribe different standards and requirements to apply in different specified regions and districts.  
 (1B) The Minister must not recommend ~~the making of~~ regulations under **subsection (1)(ca)(i) or (ii)** unless satisfied that, in developing the NEDS, the Water Services Authority consulted ~~conducted review and consultation processes in~~ accordance with **sections 97E and section 97F**. 35

**339 Section 201 amended (Levy)**

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

(1A) A levy prescribed under subsection (1) in relation to any costs of the Water Services Authority that relate to the performance or exercise of its functions, powers, and duties under **subpart 1AA of Part 3** (national engineering design standards for water networks) is payable by a water service provider that operates the whole or any part of a network.

5

(1A) After section 201(4)(b), insert:

(ba) provide for a penalty for the late payment of the levy; and

(2) After section 201(5), insert:

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(5A) In **subsection (1A)**,—

**network** means a water supply network, a stormwater network, or a wastewater network within the meaning of those terms in section 97C

**water service provider** has the same meaning as set out in section 4 of the Local Government (Water Services) Act **2024**.

15

**340 ~~Section 202 amended (Recovery of fees and levies)~~**

~~In section 202, insert as subsection (2):~~

~~(2) A product approver may recover a fee payable to the approver under **section 97S** in any court of competent jurisdiction as a debt due on behalf of the Crown.~~

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**341 Section 204 amended (Information sharing with regulatory agencies)**

(1) In section 204(5), definition of **regulatory agency**, after paragraph (l), insert:

(la) a water service provider:

(2) After section 204(5), insert:

(5A) In subsection (5), in **paragraph (la)** of the definition of **regulatory agency**, **water service provider** has the same meaning as set out in section 4 of the Local Government (Water Services) Act **2024**.

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**342 ~~Section 205 amended (Publication of instruments)~~**

~~After section 205(1)(a), insert:~~

~~(aa) the publicly available version of the NEDS register kept under **section 97V**;~~

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**343 Schedule 1 amended**

(1) In Schedule 1, clause 6(2)(b), replace “4 years” with “7 years”.

~~(2) In Schedule 1, clause 6(2)(c), replace “7 years” with “9 years”.~~

(2) In Schedule 1, replace clause 6(2)(c) with:

35

- (c) unless **section 30(1A)** applies, provide the Water Services Authority with a drinking water safety plan that complies with section 30(1) within 9 years after the commencement date.
- (3) In Schedule 1, clause 6(3)(a) and (b), replace “7 years” with “9 years”.
- (4) In Schedule 1, clause 6(3)(b), replace “4 years” with “7 years”. 5
- (4A) In Schedule 1, clause 6(4), replace “earlier” with “earliest”.
- (4B) In Schedule 1, after clause 6(4)(b), insert:
- (c) if **section 30(1A)** applies, the date that is 9 years after the commencement date.
- (5) In Schedule 1, clause 7, replace “council-controlled organisation” with “water organisation”. 10
- (6) In Schedule 1, clause 7, replace “5 years” with “10 years”.
- (6A) In Schedule 1, repeal clause 14(1)(d).
- (7) In Schedule 1,—
- (a) insert the Part set out in **Schedule 11-8** of this Act as the last Part; and 15
- (b) make all necessary consequential amendments.

## Part 6

### Miscellaneous provisions

#### 344 Interpretation

In this Part,— 20

~~**claimant group** means a group of Māori with Treaty of Waitangi claims against the Crown, whether or not those claims have been lodged with, or heard by, the Waitangi Tribunal under the Treaty of Waitangi Act 1975~~

**compliance officer** means a compliance officer appointed under **section 366**

**infringement fee**, in relation to an infringement offence, means the infringement fee for the offence specified in a bylaw made under this Act 25

**infringement offence** means an offence that—

- (a) ~~is an offence~~ identified in a bylaw made under this Act as being an infringement offence; ~~and or~~
- (b) is an offence against **section 393, 397, 398, 401, 402, 404, 406, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, or 419** 30

~~**post-settlement governance entity—**~~

- (a) ~~means a body corporate or the trustees of a trust established by a claimant group for the purposes of receiving redress or participating in arrangements established under a Treaty settlement Act; and~~ 35

- ~~(b) includes an entity established to represent a collective or combination of claimant groups~~

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

- (a) illness, injury, or death: 5
- (b) public health:
- (c) the natural or built environment:
- (d) water services infrastructure:
- (e) sites of cultural significance.

~~**Treaty settlement Act**~~ 10

- ~~(a) means—~~
- ~~(i) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975 by an Act that was enacted on or before the commencement date; and~~
- ~~(ii) any other Act that was enacted on or before the commencement date and that provides redress for Treaty of Waitangi claims, including—~~ 15
- ~~(A) an Act that provides collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act; and~~
- ~~(B) the Hawke's Bay Regional Planning Committee Act 2015; but~~ 20
- ~~(b) does not include the Maori Commercial Aquaculture Claims Settlement Act 2004.~~

**345 Regulations**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes: 25
- (a) providing for anything this Act says may or must be provided for by regulations:
- (b) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act. 30
- (2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Subpart 1—Water services bylaws

~~**346 Definition of water services bylaw**~~

~~In this subpart, **water services bylaw** means a bylaw that relates to water services.~~ 35

**347 Power to make water services bylaws**

- (1) A territorial authority may make water services bylaws for its district for the purposes of regulating 1 or more of the following matters:
- (aaa) connections to, and disconnections from, a water supply network, a stormwater network, or a wastewater network (see **section 110**): 5
  - (a) ~~activities that may be carried out in or around a controlled drinking water catchment area:~~
  - (b) a matter related to ~~discharging~~ trade waste specified in **section 152(2)** into a water supply network, a stormwater network, or a wastewater network (see **section 152**): 10
  - (e) ~~connecting to a water supply network, a stormwater network, or a wastewater network:~~
  - (d) managing a stormwater network, including to support a water service provider's stormwater network risk management plan (see **section 170**): 15
  - (da) a matter that is proposed or recommended in a source water risk management plan (see **section 348A**):
  - (e) the provision of ~~providing~~ water services:
  - (f) conserving drinking water provided in the territorial authority's district:
  - (g) discharging domestic waste and sewage: 20
  - (h) the use of equipment or devices for the purposes of providing water services.
- (1A) A water services bylaw may authorise a water service provider to grant and administer permits (including charging fees for permits) for activities that may be undertaken in relation to water services. 25
- (1B) If a bylaw authorises a water service provider to charge a fee, section 150(1) to (4) of the LGA 2002 applies with any necessary modifications.
- (2) To avoid doubt, a territorial authority may make a water services bylaw that relates to a specific water service despite the water service being provided by a water service provider other than the territorial authority. 30
- (2A) Before making a bylaw, a territorial authority must—
- (a) send a copy of the proposed bylaw to each water organisation that operates in the territorial authority's district for comment; and
  - (b) consider any comments received from a water organisation.
- (2B) However, **subsection (2A)** does not apply if the water organisation proposed that the territorial authority make the bylaw. 35
- (2C) For the purposes of making, amending, or revoking a bylaw under this subpart, section 156 of the LGA 2002 applies, with any necessary modifications, as if the bylaw were being made, amended, or revoked under that Act.

- (3) Before making a bylaw relating to the discharge of trade waste, a territorial authority must— follow the process set out in section 148(2) to (4) of the LGA 2002 as if the bylaw were being made under that Act.
- (a) ~~send a copy of the proposed bylaw to the Water Services Authority for comment; and~~ 5
- (b) ~~follow the process set out in section 148(2) to (4) of the LGA 2002 as if the bylaw had been made under that Act.~~
- (4) If a territorial authority makes a bylaw under **subsection (1)** regulating a wastewater network, the bylaw must not be inconsistent with ~~give effect to~~ any wastewater environmental performance standards made under section 138 of the Water Services Act 2021. 10
- (5) If a territorial authority makes a bylaw under **subsection (1)** or the Reserves Act 1977 relating to a stormwater network, the bylaw must not be inconsistent with ~~give effect to~~ any stormwater environmental performance standards made under section 139A of the Water Services Act 2021. 15
- (6) If a territorial authority makes a bylaw under **subsection (1)**,—
- (a) it must make the bylaw available—
- (i) for public inspection free of charge at the public office of the territorial authority during ordinary office hours; and
- (ii) on a publicly accessible internet site maintained by or on behalf of the territorial authority; and 20
- (b) if a water service provider in the territorial authority’s district is a water organisation, the water organisation must make the bylaw available—
- (i) for public inspection free of charge at the public office of the water organisation during ordinary office hours; and 25
- (ii) on a publicly accessible internet site maintained by or on behalf of the water organisation.

### 348 **Water organisation service provider may propose making, amending, or revoking water services bylaw**

- (1) A water organisation service provider may propose, in writing, that the territorial authority in whose district the water organisation service provider operates makes a new water services bylaw or amends or revokes an existing water services bylaw. 30
- (2) ~~Before making a proposal to a territorial authority under **subsection (1)**, the water service provider must undertake the consultation on the proposed bylaw (or proposed amendment or revocation) that the territorial authority would be required to undertake for the purpose of making the proposed bylaw, amendment, or revocation.~~ 35

- (2) A territorial authority that receives a proposal under **subsection (1)** must decide, after consulting the water organisation that made the proposal, whether—
- (a) the territorial authority will undertake any consultation required by section 156 of the LGA 2002 (see **section 347(2C)**); or 5
  - (b) the water organisation will undertake the consultation on behalf of the territorial authority.
- (2A) If the territorial authority decides that the water organisation will undertake the consultation, the water organisation must—
- (a) undertake the consultation; and 10
  - (b) after completing the consultation, decide whether to confirm, amend, or withdraw its proposal; and
  - (c) notify the territorial authority of that decision.
- (2B) If the territorial authority decides to undertake the consultation, it must—
- (a) undertake the consultation; and 15
  - (b) after completing the consultation, decide whether to accept, amend, or decline the proposal; and
  - (c) notify the water organisation of that decision, with reasons.
- (3) If a water ~~organisation service provider~~ that makes a proposal under **subsection (1)** operates in the district of more than 1 territorial authority, it must make the same proposal to each of the territorial authorities. 20
- (4) However, **subsection (3)** ~~Subsection (3)~~ does not apply if there is good reason for the water ~~organisation service provider~~ not to make the same proposal to each territorial authority.
- (5) If a water organisation makes a proposal to more than 1 territorial authority, each territorial authority that receives the proposal must, to the extent practicable,— 25
- (a) consider the proposal jointly with the other territorial authorities that received the proposal; and
  - (b) respond to the proposal in a manner that ensures that its relevant bylaws are consistent with the bylaws of each other territorial authority that receives the proposal. 30

#### **348A** Bylaws proposed or recommended in source water risk management plan

- (1) Without limiting **section 347**, a source water risk management plan may include a proposal that a territorial authority makes, amends, or revokes a water services bylaw. 35
- (2) **Section 349** applies to a proposal included in a source water risk management plan.

- (3) In this section, **source water risk management plan** has the meaning set out in section 5 of the Water Services Act 2021.

### 349 Territorial authority must consider proposal

- (1) As soon as practicable after receiving a proposal to make, amend, or revoke a water services bylaw under **section 348 or 348A (the proposed bylaw)**, a territorial authority must decide whether it meets the following requirements: to make, amend, or revoke the water services bylaw. 5
- (a) the proposed bylaw is a bylaw that relates to the water services provided by the water organisation; and
- (b) the enactment under which the proposed bylaw is to be made authorises making the bylaw; and 10
- (c) the proposed bylaw complies with the applicable statutory requirements of that enactment and any other relevant enactments; and
- (d) the proposed bylaw is not inconsistent with any strategy, policy, plan, or bylaw of the territorial authority; and 15
- (e) the proposed bylaw can be implemented and enforced in a cost-effective manner.
- (1A) If the territorial authority decides that the proposed bylaw—
- (a) meets the requirements in **subsection (1)**, it must—
- (i) notify the water organisation that made the proposal of that decision; or 20
- (ii) make the bylaw in accordance with **section 347**; or
- (b) does not meet the requirements in **subsection (1)**, it must notify the water organisation that made the proposal of that decision, with reasons.
- (2) ~~For the purposes of deciding whether to make, amend, or revoke a bylaw under **subsection (1)**, the territorial authority must use the special consultative procedure under the LGA 2002 and, for that purpose, section 156(1) of that Act applies, with any necessary modifications, as if the bylaw were a bylaw being made under that Act.~~ 25
- (3) ~~However, if a territorial authority decides to make, amend, or revoke a water services bylaw under **subsection (1)**,~~ 30
- (a) ~~it is not required to consult under **subsection (2)** if it is satisfied that the water service provider met the consultation requirements before making the proposal; but~~
- (b) ~~it is required to meet all other requirements for making, amending, or revoking a bylaw specified in this Act or any other enactment.~~ 35
- (4) ~~If, under **section 348(3)**, a water service provider makes a proposal to more than 1 territorial authority, each territorial authority that receives the proposal must, to the extent practical,—~~

- (a) ~~consider the proposal jointly with the other territorial authorities that received the proposal; and~~
- (b) ~~respond to the proposal in a manner that ensures that its relevant bylaws are consistent with the bylaws of each other territorial authority that receives the proposal.~~

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### 350 Territorial authority may delegate functions or powers relating to water services bylaws

- (1) A territorial authority may delegate any of its functions or powers that relate to the administration or enforcement of a water services bylaw.
- (2) However, a territorial authority—
  - (a) may only make a delegation under **subsection (1)** to a water organisation ~~service provider~~ that operates in the territorial authority's district; and
  - (b) must not delegate the function or power—
    - (i) to make, amend, or revoke a bylaw; or
    - (ii) to delegate functions and powers under this section.
- (3) A water organisation ~~service provider~~ to which any functions or powers are delegated under this section may, unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the water organisation ~~service provider~~ were the territorial authority.
- (4) A water organisation ~~service provider~~ who purports to perform a function or exercise a power under a delegation under this section—
  - (a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of the delegation; and
  - (b) must produce evidence of the delegation, if reasonably requested to do so.
- (5) No delegation under this section—
  - (a) affects or prevents the performance of any function or the exercise of any power by the territorial authority; or
  - (b) affects the responsibility of the territorial authority for the actions of the water organisation ~~service provider~~ acting under the delegation; or
  - (c) is affected by any change in the membership of the territorial authority.
- (6) A delegation under this section may be revoked by—
  - (a) resolution of the territorial authority and notice to the water organisation ~~service provider~~; or
  - (b) any other method provided for in the delegation.

**351 Initial review of bylaws**

- (1) A territorial authority must identify and review each water services bylaw—
- (a) that relates to ~~providing the provision of~~ water services in its district (whether provided by the local authority or any other water service provider); and 5
  - (b) that the territorial authority has made under this Act or any other Act.
- (2) The purpose of the review is to ensure that each water services bylaw is consistent with the requirements set out in this Act.
- (3) The territorial authority must ~~complete the review of~~ each water services bylaw no later than the date that is 2 years after the date on which this section comes into force. 10
- (4) As part of the review of a bylaw under this section, the territorial authority must—
- (aaa) invite each water organisation operating in the territorial authority's district to propose a new bylaw or an amendment to the existing bylaw; and 15
  - (aab) consider each proposal made under **paragraph (aaa)**; and
  - (a) decide whether to confirm the bylaw, or to amend, revoke, or revoke and replace the bylaw to ensure it is consistent with the provisions in this Act; and
  - (b) if it decides a bylaw should be amended, revoked, or revoked and replaced, develop a plan for doing so; ~~and~~ 20
  - ~~(c) invite each water service provider operating in the territorial authority's district to propose a new bylaw or an amendment to the existing bylaw; and~~
  - ~~(d) consider each proposal made under **paragraph (c)**.~~ 25
- (4A) However, **subclause (4)** does not require a territorial authority to consult a water organisation unless the organisation provides water services that are relevant to the topic of the bylaw.
- (5) A plan required under **subsection (4)(b)** for amending, revoking, or revoking and replacing a bylaw must— 30
- (a) include a schedule of dates for each step in the plan; and
  - (b) ensure that the amendment, replacement, or revocation and replacement is made no later than the date that is 5 years after the date on which this section comes into force.
- (6) If a territorial authority has established a water organisation under a joint arrangement with 1 or more other territorial authorities, the territorial authorities must jointly complete the review under this section of the water services bylaws under which the water organisation operates. 35

(7) A bylaw that has not yet been reviewed under this section is not required to be reviewed under section 158 or 159 of the LGA 2002.

### 352 Ongoing review of water services bylaws

(1) A territorial authority must review a water services bylaw it has made under this Act or under any other Act— 5

(a) no later than 10 years after the date on which it makes the bylaw; and

(b) no later than 10 years after the bylaw was last reviewed under **paragraph (a)**.

(1A) A review under this section must be completed in accordance with section 160 of the LGA 2002, with any necessary modifications. 10

~~(2) As part of the review of a water services bylaw under this section, the territorial authority must—~~

~~(a) determine whether a bylaw is the most appropriate way of addressing the perceived problem; and~~

~~(b) if the territorial authority determines that a bylaw is the most appropriate way, determine whether the bylaw—~~ 15

~~(i) is the most appropriate form of bylaw; and~~

~~(ii) gives rise to any implications under the New Zealand Bill of Rights Act 1990.~~

(2A) As part of the review of a bylaw under this section, the territorial authority must— 20

(a) invite each water organisation operating in the territorial authority's district to propose a new bylaw or an amendment to the existing bylaw; and

(b) consider each proposal made under **paragraph (a)**; and

(c) decide whether to confirm the bylaw, or to amend, revoke, or revoke and replace the bylaw to ensure it is consistent with the provisions in this Act. 25

(2B) However, **subclause (2A)** does not require a territorial authority to consult a water service provider unless the provider provides water services that are relevant to the topic of the bylaw. 30

~~(3) After reviewing a water services bylaw, the territorial authority must determine whether the bylaw—~~

~~(a) should be amended, revoked, or revoked and replaced, in which case it must do so under this Part; or~~

~~(b) should continue without amendment.~~ 35

~~(4) For the purposes of amending, revoking, or revoking and replacing a bylaw under **subsection (3)(a)**, the territorial authority must use the special consultative procedure under the LGA 2002 and, for that purpose, section 156(1)~~

~~of that Act applies, with any necessary modifications, as if the bylaw were a bylaw being made under that Act.~~

- (5) If a territorial authority has established a water organisation under a joint arrangement with 1 or more other territorial authorities, the territorial authorities must jointly complete the review under this section of the water services bylaws under which the water organisation operates. 5

**353 Water organisation must provide advice on request ~~Territorial authority must seek input from water service providers~~**

- (1) ~~A territorial authority that reviews a water services bylaw must—~~
- (a) ~~seek advice from each water service provider that operates in the territorial authority's district; and~~ 10
- (b) ~~invite each water service provider that operates in the territorial authority's district to propose a water services bylaw under **section 348**.~~
- (2) ~~However, **subsection (1)** does not apply when the territorial authority reviews a water services bylaw as a result of receiving a proposal under **section 348**.~~ 15
- (3) A water organisation ~~service provider~~ that is asked for advice by a territorial authority under **section 351(4)(aaa) or 352(2A)(a)** ~~**subsection (1)**~~ must provide its advice—
- (a) to the territorial authority that sought it; and 20
- (b) if the territorial authority that sought the advice has entered into a joint arrangement with 1 or more other territorial authorities for the water organisation ~~service provider~~ to provide water services, to those other territorial authorities.

**353A Water services bylaw not reviewed within specified time frame revoked** 25

A water services bylaw that is not reviewed in accordance with **section 351 or 352**, if not earlier revoked by the territorial authority, is revoked,—

- (a) in the case of a bylaw that is not reviewed as required under **section 351**, on the date that is 7 years after the date on which that section comes into force; or 30
- (b) in the case of a bylaw that is not reviewed as required under **section 352**, on the date that is 2 years after the date by which the bylaw was required to have been reviewed under that section.

**354 Power to make water services bylaws does not limit other powers**

The power under this Act for a territorial authority to make a water services bylaw does not limit the territorial authority's power to make a bylaw under any other Act (including, for example, under the LGA 2002). 35

**355 Bylaws Act 1910**

The Bylaws Act 1910 prevails over this Act.

Subpart 2—Compliance and enforcement

*Infringement offences*

- 356 Bylaw may provide for infringement offences** 5
- A water services bylaw made under this Act may—
- (a) specify the offences under this Act that are infringement offences (which must be an offence against a section listed in paragraph (b) of the definition of infringement offence in section 344):
  - (b) prescribe infringement fees for those offences, not exceeding— 10
    - (i) \$1,000 for an individual; or
    - (ii) \$3,000 for a body corporate:
  - (c) prescribe the form of infringement notices for infringement offences:
  - (d) prescribe matters to be included in infringement notices:
  - (e) prescribe the form of a reminder notice. 15
- 357 Infringement offences**
- (1) A person who is alleged to have committed an infringement offence may—
    - (a) be proceeded against by ~~the filing of~~ a charging document under section 14 of the Criminal Procedure Act 2011; or
    - (b) be issued with an infringement notice under **section 359**. 20
  - (2) Proceedings commenced in the way described in **subsection (1)(a)** do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.
  - (3) *See* section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued. 25
- 358 Who may issue infringement notices**
- (1) A territorial authority may, in writing, authorise a compliance officer to issue infringement notices under this Act.
  - (2) However, a territorial authority may delegate the power to authorise a compliance officer to issue infringement notices to a water organisation ~~service provider~~. 30
- 359 When infringement notice may be issued**
- A compliance officer may issue an infringement notice to a person if the compliance officer believes on reasonable grounds that the person is committing, or has committed, an infringement offence. 35

**360 Revocation of infringement notice before payment made**

- (1) The compliance officer may revoke an infringement notice before—
- (a) the infringement fee is paid; or
  - (b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957. 5
- (2) The compliance officer must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice.
- (3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in **section 357(1)(a) or (b)** against the person to whom the notice was issued in respect of the same matter. 10

**361 What infringement notice must contain**

An infringement notice must be in the form prescribed in the bylaw and must contain the following particulars:

- (a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence: 15
- (b) the amount of the infringement fee:
- (c) the address of the territorial authority or water service provider (as applicable):
- (d) how the infringement fee may be paid:
- (e) the time within which the infringement fee must be paid: 20
- (f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:
- (g) a statement that the person served with the notice has a right to request a hearing:
- (h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing: 25
- (i) any other matters required by the bylaw to be included in the notice.

**362 How infringement notice may be served**

- (1) An infringement notice may be served on the person who the compliance officer believes is committing or has committed the infringement offence by— 30
- (a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or
  - (b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or
  - (c) leaving it for the person at the person's place of business or work with another person; or 35

- (d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or
- (e) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand. 5
- (2) Unless the contrary is shown,—
- (a) an infringement notice (or a copy of it) sent by prepaid post to a person under **subsection (1)** is to be treated as having been served on that person on the fifth working day after the date on which it was posted; and
- (b) an infringement notice sent to a valid electronic address is to be treated as having been served at the time the electronic communication first entered an information system that is outside the control of the territorial authority or water service provider (as applicable). 10

### 363 Payment of infringement fees

An infringement fee paid for an infringement offence must be paid to the territorial authority (or the water organisation service provider if delegated under **section 358(2)**) that appointed the compliance officer who issued the infringement notice for the offence. 15

### 364 Reminder notices

A reminder notice must be in the form prescribed in the bylaw and must include the same particulars, or substantially the same particulars, as the infringement notice. 20

#### *Amendment to Summary Proceedings Act 1957*

### 365 Amendment to Summary Proceedings Act 1957

- (1) This section amends the Summary Proceedings Act 1957. 25
- (2) In section 2(1), definition of **infringement notice**, after paragraph (jl), insert:  
(jm) section 359 of the Local Government (Water Services) Act **2024**; or

#### *Compliance officers*

### 366 Compliance officers

- (1) A territorial authority or a water organisation service provider may, by notice in writing, appoint the following as a compliance officer: 30
- (a) an employee of the territorial authority or water organisation service provider:  
**vider**:
- (b) any other person who the territorial authority or water service provider is satisfied— 35
- (i) is suitably qualified and trained; or

- (ii) belongs to a class of persons who are suitably qualified and trained to perform or exercise all or any of the functions, duties, and powers of a compliance officer.
- (2) A compliance officer's compliance powers are subject to any conditions or limitations specified in the notice of the officer's appointment. 5
- (3) However, the exercise of a compliance power by a compliance officer is not invalid merely because it did not comply with the conditions specified in their notice of appointment.
- Compare: 2022 No 77 s 367
- 367 Identity cards** 10
- (1) A territorial authority or water service provider must give each compliance officer it appoints an identity card that states the person's name and appointment as a compliance officer.
- (2) A compliance officer must, when exercising compliance powers under this Act, produce their identity card for inspection on request. 15
- (3) A person who ceases to be a compliance officer must, as soon as practicable, return the identity card to the territorial authority or the water service provider that appointed it.
- Compare: 2022 No 77 s 368
- 368 Suspension and ending of appointment of compliance officers** 20
- ~~(1)~~ A territorial authority or water organisation ~~service provider~~ may, at any time, suspend or end the appointment of a compliance officer it has appointed.
- ~~(2)~~ ~~A person's appointment as a compliance officer ends when the person ceases to be eligible for appointment as a compliance officer.~~
- Compare: 2022 No 77 s 369 25

### *Compliance powers*

#### **369 Purpose of compliance powers**

A compliance officer may exercise a power under this ~~Act~~ subpart only for 1 or more of the following purposes:

- (a) to ensure that compliance requirements under this ~~Act~~ subpart have been, are being, or will be met: 30
- (b) to investigate specified serious risks relating to water services:
- (c) to respond to specified serious risks:
- (d) to investigate the commission of offences against bylaws and infringement offences under this Act: 35

- (e) to bring proceedings in relation to any compliance order (*see* **section 383**) or offence under this Act.

Compare: 2022 No 77 s 372

*Power to take and test samples*

**370 Power to take and test samples** 5

- (1) A compliance officer may, for a purpose specified in **section 369**, take and test a sample of any material, substance, or other thing for analysis.
- (2) However, **subsection (1)** does not authorise a compliance officer to take a sample from a person's body.
- (3) A compliance officer must, not later than 10 working days after removing any sample under this section, give the person from whom it was taken an inventory of all samples taken. 10
- (4) A sample taken under **subsection (1)** may only be used to determine whether compliance requirements have been, are being, or will be met.

Compare: 2002 No 77 s 377

15

*Power to obtain information*

**371 Power to obtain information**

- (1) A compliance officer may—
- (a) inspect, at all reasonable times, all records and documents of every description in the possession or control of a person that are required to be kept under this Act; and 20
- (b) make copies of, or take extracts from, those records and documents; and
- (c) direct any person who has possession or control of those records and documents to supply to the compliance officer, in any reasonable manner that the officer specifies, all or any of those records or documents; and 25
- (d) take photographs, video recordings, and other visual images; and
- (e) take audio sound recordings; and
- (f) make electronic records.
- (2) The compliance officer must, not later than 10 working days after directing a person to supply documents under this section, give the person an inventory of all documents taken. 30
- (3) Subpart 5 of Part 4 of the Search and Surveillance Act 2012 (privilege and confidentiality) applies to anything done under this section.
- (4) Nothing in this section limits any other legislation that imposes a prohibition or restriction on the collection of information. 35

Compare: 2022 No 77 s 378

**372 Power to require name, date of birth, and address**

- (1) A compliance officer may require a person to provide the person's name, date of birth, and residential address if—
- (a) the officer finds the person committing an offence under this Act; or
  - (b) the officer finds the person in circumstances that lead, or has information that leads, the officer to reasonably suspect that the person has committed an offence under this Act. 5
- (2) When asking a person to provide their name, date of birth, and residential address, the compliance officer must—
- (a) tell the person the reason for the requirement to provide their name, date of birth, and residential address; and 10
  - (b) warn the person that it is an offence to fail to provide their name, date of birth, and residential address, unless the person has a reasonable excuse.
- (3) If the compliance officer reasonably believes that the name, date of birth, or ~~and~~ residential address that a person provides is ~~are~~ false, the compliance officer may require the person to give evidence of their correctness. 15
- (4) Subpart 5 of Part 4 of the Search and Surveillance Act 2012 (privilege and confidentiality) applies to anything done under this section.
- (5) Nothing in this section limits any other legislation that imposes a prohibition or restriction on the collection of information. 20

Compare: 2022 No 77 s 379

**373 Power to question**

- (1) If a compliance officer reasonably believes that a person holds relevant information, the compliance officer may direct that person to answer any question for the purpose of— 25
- (a) ensuring that compliance requirements have been, are being, or will be met; or
  - (b) investigating anything the officer believes is a specified serious risk.
- (2) The person must answer the questions, subject to **subsections (3) and (4)**.
- (3) Subpart 5 of Part 4 of the Search and Surveillance Act 2012 (privilege and confidentiality) applies to anything done under this section. 30
- (4) Nothing in this section limits any other legislation that imposes a prohibition or restriction on the collection of information.

Compare: 2022 No 77 s 380

**374 Powers of entry and inspection** 35

- (1) A compliance officer may exercise a power under **subsection (2)** for 1 or more of the purposes in **section 369(a) to (c)**.
- (2) Subject to this section, a compliance officer may, in relation to a place,—

- (a) enter the place; and
  - (b) inspect the place; and
  - (c) exercise the power set out in **section 370** (power to take and test samples).
- (3) Before exercising the power to enter a place, the compliance officer must make reasonable efforts to contact the owner, occupier, or person in charge of the place. 5
- (4) A compliance officer must not enter a home, except with the consent of an occupier.
- (5) A compliance officer must not enter any land on which a marae or an urupā is situated or that is a Māori reservation, except with the consent of an owner. 10
- (6) A compliance officer must not enter any Māori land unless, before entering, the compliance officer has given reasonable notice in writing to the owner (or owners) of the land.
- (7) However, if the land referred to in **subsection (6)** is owned by more than 10 persons with no clear management structure or is owned by more than 10 persons and not vested in a trustee, the compliance officer must not enter the land unless, before entering, the compliance officer has given reasonable notice in writing to the trustees of the principal marae of the hapū associated with the land. 15 20
- (8) A compliance officer must not enter any land that is a reserve vested in a post-settlement governance entity and managed by an administering body unless, before entering, the compliance officer has given reasonable notice in writing to the post-settlement governance entity and the administering body.
- (9) A compliance officer must not enter a defence area (within the meaning of section 2(1) of the Defence Act 1990) under this section, except in accordance with a written agreement between the compliance officer's chief executive and the Chief of Defence Force. 25
- (10) Part 4 of the Search and Surveillance Act 2012 (other than subparts 2, 3, 6, and 8 and sections 118 and 119) applies to anything done under this section. 30
- (11) For the purposes of this section, in relation to circumstances in which consent is required, the person giving consent must be a person who has the capacity to consent.

Compare: 2022 No 77 s 381

**375 Power to enter place without search warrant** 35

- (1) A compliance officer may exercise a power under **subsection (2)** if the officer believes, on reasonable grounds, that the exercise of the power is required in relation to a specified serious risk.
- (2) A compliance officer may, in relation to a place,—
- (a) enter the place without a search warrant; and 40

- (b) search the place; and
- (c) exercise any of the powers in **sections 370 to 373**.
- (3) Before exercising the power to enter a place, the compliance officer must make reasonable efforts to contact the owner, occupier, or person in charge of the place. 5
- (4) A compliance officer must not enter a home, except with the consent of an occupier.
- (5) A compliance officer must not enter any land on which a marae or an urupā is situated or that is a Māori reservation, except with the consent of an owner.
- (6) A compliance officer must not enter any Māori land unless, before entering, the compliance officer has given reasonable notice in writing to the owner (or owners) of the land. 10
- (7) However, if the land referred to in **subsection (6)** is owned by more than 10 persons with no clear management structure or is owned by more than 10 persons and not vested in a trustee, the compliance officer must not enter the land unless, before entering, the compliance officer has given reasonable notice in writing to the trustees of the principal marae of the hapū associated with the land. 15
- (8) A compliance officer must not enter any land that is a reserve vested in a post-settlement governance entity and managed by an administering body unless, before entering, the compliance officer has given reasonable notice in writing to the post-settlement governance entity and the administering body. 20
- (9) A compliance officer must not enter a defence area (within the meaning of section 2(1) of the Defence Act 1990) under this section, except in accordance with a written agreement between the compliance officer's chief executive and the Chief of Defence Force. 25
- (10) Part 4 of the Search and Surveillance Act 2012 (other than subparts 2, 3, 6, and 8 and sections 118 and 119) applies to anything done under this section.
- (11) For the purposes of this section, in relation to circumstances in which consent is required, the person giving consent must be a person who has the capacity to consent. 30

Compare: 2022 No 77 s 382

### **376 Notice of entry**

- (1) If a compliance officer enters any place under this Act and is unable, despite reasonable efforts, to find the owner, occupier, or person in charge as required by this Act, the officer must, before leaving the place, leave a written notice stating— 35
- (a) the officer's identity; and
- (b) the officer's contact information; and
- (c) the date and time of entry; and 40

- (d) the officer's reasons for entering.
- (2) In **subsection (1)(b)**, **contact information** includes 1 or more of the following:
- (a) phone number:
  - (b) email address: 5
  - (c) physical or postal address.
- Compare: 2022 No 77 s 383
- 377 Power to enter place with consent or search warrant**
- (1) The chief executive of a water service provider may authorise a specified person to enter and search a place, vehicle, or other thing for the purpose of ascertaining whether a person has engaged in or is engaging in conduct that contravenes or may contravene any compliance requirement, if satisfied that there are reasonable grounds— 10
- (a) to suspect that person has engaged in or is engaging in conduct that constitutes or may constitute a contravention; and 15
  - (b) to believe that the search will find evidence in or on any part of the place, vehicle, or thing.
- (2) A specified person authorised under **subsection (1)** may enter and search the place, vehicle, or other thing if—
- (a) the occupier of the place or the person in charge of the vehicle or thing (as the case may be) consents; or 20
  - (b) the specified person obtains a warrant under **subsection (3)**.
- (3) An issuing officer may issue a search warrant in relation to a place, vehicle, or thing, on an application made in the manner provided by subpart 3 of Part 4 of the Search and Surveillance Act 2012 by a specified person authorised under **subsection (1)**, if the issuing officer is satisfied that there are reasonable grounds— 25
- (a) to suspect that a person has engaged in or is engaging in conduct that contravenes or may contravene any compliance requirement; and
  - (b) to believe that the search will find evidence in or on any part of the place, vehicle, or thing. 30
- (4) ~~In this section, **specified person** means—~~
- ~~(a) a compliance officer; or~~
  - ~~(b) an employee of the water service provider; or~~
  - ~~(c) any other person who the chief executive of the water service provider is satisfied is suitably qualified and trained.~~ 35
- (4) In this section,—

**issuing officer** has the meaning set out in section 3(1) of the Search and Surveillance Act 2012

**specified person** means—

- (a) a compliance officer; or
  - (b) an employee of the water service provider; or 5
  - (c) any other person who the chief executive of the water service provider is satisfied is suitably qualified and trained.
- (5) Despite **subsection (4)**, a constable may apply for a warrant to be issued under **subsection (3)** without an authorisation from the chief executive.
- (6) The provisions of Part 4 of the Search and Surveillance Act 2012 (except sections 118 and 119) apply, with any necessary modifications. 10

Compare: 2022 No 77 s 384

### **377A Authority to act**

- (1) If a compliance officer is authorised by this Act to enter private land on behalf of a territorial authority or water organisation, the territorial authority or water organisation must provide a written warrant that the person is so authorised. 15
- (2) The written warrant must,—
- (a) in the case of a territorial authority, be produced under the seal of the authority; or
  - (b) in the case of a water organisation, be certified by the chief executive of the organisation. 20
- (3) The production of a warrant provided under **subsection (1)** is sufficient proof of a person’s authorisation.
- (4) A compliance officer must, if requested, produce the warrant provided under **subsection (1)** before entering private land under its authority. 25
- (5) A compliance officer must surrender to the territorial authority or water organisation the warrant provided under **subsection (1)** if—
- (a) the compliance officer’s appointment is terminated; or
  - (b) the authorisation referred to in **subsection (1)** is terminated. 30

Compare: 2002 No 84 s 174

### **377B Delegation of power to issue warrants to compliance officers**

- (1) A territorial authority or water organisation may delegate to a committee or member or officer of the territorial authority or water organisation the power to provide warrants to compliance officers.
- (2) A delegation under **subsection (1)** may— 35
- (a) limit or restrict the exercise of the power; or
  - (b) impose conditions on the exercise of the power; or

- (c) prohibit, in specified circumstances, the exercise of the power.
- (3) The territorial authority or water organisation must determine the matters in subsection (2) before acting under subsection (1).
- (4) To avoid doubt,—
- (a) a delegation does not relieve the territorial authority or water organisation of the liability or legal responsibility to perform or ensure performance of any function or duty; and 5
- (b) the delegation powers in this section are in addition to any power of delegation a territorial authority or water organisation has under any other enactment. 10

Compare: 2002 No 84 Schedule 7 cl 32A

### **378 Continuation of powers of entry and inspection without search warrants**

A compliance officer who, in the course of exercising a power under **section 375**, finds evidence of contravention of a relevant compliance requirement is not required to obtain a search warrant under **section 377** to continue exercising powers under **section 375**. 15

Compare: 2022 No 77 s 385

### **379 Conditions of entry, search, and seizure**

- (1) A compliance officer must take all reasonable steps to ensure that any equipment the officer has taken into a place is— 20
- (a) free from contamination; and
- (b) in good working order.
- (2) Section 110(e) of the Search and Surveillance Act 2012 applies.

Compare: 2022 No 77 s 386

### **380 Compliance with Building Act 2004** 25

- (1) If a compliance officer, in the course of performing functions or exercising powers under this Act, believes that any building or sitework that relates to water services infrastructure does not comply with the Building Act 2004 or the building code made under that Act, the officer must notify the appropriate territorial authority in writing and include details of the officer's opinion. 30
- (2) In this section, **sitework** has the meaning given in section 7(1) of the Building Act 2004.

Compare: 2022 No 77 s 387

### **381 Power to ask for assistance**

- (1) A compliance officer who considers it necessary to do so may ask a person for assistance in performing their functions or exercising their powers (other than exercising a power of entry) under this Act. 35
- (2) If the person agrees to assist, they—

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

Compare: 2022 No 77 s 388

### **382 Protection of persons acting under authority of Act**

- (1) This section applies to the following persons: 5
    - (a) a compliance officer:
    - (b) a person ~~asked~~ ~~called~~ to assist a compliance officer:
    - (c) a water service provider:
    - (d) a territorial authority:
    - (e) a specified person authorised to enter and search a place, vehicle, or thing under **section 377**. 10
  - (2) The person is protected from civil and criminal liability, however it may arise, for any act that the person does or omits to do in the performance or purported performance of the person's duties or functions, or the exercise or purported exercise of the person's powers, under this Act— 15
    - (a) in good faith; and
    - (b) with reasonable cause.
  - (3) See also section 6 of the Crown Proceedings Act 1950.
- Compare: 2022 No 77 s 389

### *Compliance orders* 20

### **383 Power to issue compliance order**

- (1) ~~The A~~ chief executive of a water service provider ~~territorial authority or water organisation~~ may serve a compliance order on any person—
    - (a) requiring that person to stop, or prohibiting that person from starting, anything done or to be done by, or on behalf of, that person that the chief executive believes, on reasonable grounds,— 25
      - (i) contravenes, or is likely to contravene, a compliance requirement; or
      - (ii) will or may create a specified serious risk; or
    - (b) requiring that person to do something that the chief executive believes, on reasonable grounds, will— 30
      - (i) ensure compliance by, or on behalf of, that person with a compliance requirement; or
      - (ii) prevent, reduce, or eliminate any specified serious risk.
  - (2) A compliance order may be made subject to directions and conditions. 35
- Compare: 2022 No 77 s 390

**384 Compliance with compliance order**

A person on whom a compliance order is served must—

- (a) comply with the order within the period specified in it; and
- (b) unless the order directs otherwise, pay all the costs and expenses of complying with it.

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Compare: 2022 No 77 s 391(1)

**385 Form and content of compliance order**

A compliance order must state—

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

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Compare: 2022 No 77 s 392

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**386 Compliance order may be varied or cancelled**

A compliance order may be amended or revoked at any time by the chief executive of the water service provider ~~territorial authority or water organisation~~ that served it.

Compare: 2022 No 77 s 393

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**387 Formal irregularities or defects in order**

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

Compare: 2022 No 77 s 394

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**388 When chief executive may take remedial action**

(1) This section applies if a person fails to comply with the whole or any part of a compliance order that is issued to the person.

(2) ~~The~~ ~~A~~ chief executive of the water service provider ~~a territorial authority or water organisation~~ may take any remedial action they believe is reasonable to—

30

- (a) ensure compliance by, or on behalf of, that person with a compliance requirement; or
- (b) prevent, reduce, or eliminate a specified serious risk.

(3) However, the chief executive may only take action under **subsection (2)** after giving written notice to the person of—

35

- (a) the chief executive's intention to take that action; and

(b) the person's liability for the costs of that action.

Compare: 2022 No 77 s 395

### 389 Power of chief executive to take other remedial action

- (1) This section applies if ~~the a~~ chief executive of a water service provider ~~territorial authority or water organisation~~ reasonably believes that— 5
- (a) circumstances exist in which a compliance order can be issued; but
- (b) a compliance order cannot be issued at a place because, after reasonable steps are taken, the person to whom the order could be issued cannot be found.
- (2) The chief executive may take any remedial action necessary to— 10
- (a) ensure compliance by, or on behalf of, that person with any compliance requirement; or
- (b) prevent, reduce, or eliminate a specified serious risk.

Compare: 2022 No 77 s 396

### 390 ~~Costs of remedial or other action~~ 15

- (1) A ~~territorial authority or~~ water service provider may recover as a debt due to the ~~territorial authority or~~ water service provider the reasonable costs of any remedial action taken under—
- (a) **section 388** from the person to whom a compliance order is issued; or
- (b) **section 389** from any person to whom a compliance order could have 20  
been issued in relation to the matter.
- (2) This section is subject to **section 391**.

Compare: 2022 No 77 s 397

### 391 Protection of Māori land against execution for debt

- (1) This section applies in relation to— 25
- (a) a judgment for the payment of costs of remedial ~~or other~~ action under **section 390**;
- (b) a fine imposed for an offence against this Act.
- (2) The judgment or fine cannot be enforced against a person's interest in Māori customary land or, subject to section 343 of Te Ture Whenua Maori Act 1993, 30  
a person's beneficial freehold interest in Māori freehold land.
- (3) Nothing in **subsection (2)**—
- (a) limits or affects the operation of any mortgage or charge to which any Māori land is subject:
- (b) applies to any revenue derived by any person from any interest in land to 35  
which that subsection applies, and all such revenue is available for the payment of the person's debts.

- (4) For the purposes of this section, the interest of any person in Māori land includes—
- (a) that person’s interest in all timber, flax, and other things (other than industrial crops) so attached to the land as to form part of it as between the heir and the executor of a deceased freeholder at common law; and 5
  - (b) while the land remains Māori land, that person’s interest in all money that is the proceeds of any alienation of that land, except any money that has been actually received by that person or by any trustee for that person. 10
- Compare: 2022 No 77 s 398 10

### 392 Chief executive may delegate

- (1) The chief executive of a water service provider ~~territorial authority or water organisation~~ may delegate any of the chief executive’s functions or powers under this subpart to any officer or employee of the water service provider ~~territorial authority or water organisation~~ (as applicable). 15
- (2) A person to whom any functions or powers are delegated may perform those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by delegation (subject to any general or special directions given or conditions imposed by the chief executive). 20
- (3) A delegation under this section—
- (a) must be in writing signed by the chief executive; and
  - (b) is revocable at will in writing signed by the chief executive.
- (4) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation. 25
- (5) A delegation does not prevent the chief executive from performing any function or exercising any power or affect the chief executive’s responsibility for the actions of any person acting under the delegation.
- (6) If the chief executive ceases to hold office, the delegation continues to have effect as if it were made by the chief executive’s successor in office. 30
- (7) The chief executive must not delegate the power to delegate under this section.

### Subpart 3—Offences

#### *Infrastructure offence*

- 393 Carrying out building work over or near water services infrastructure without approval** 35
- (1) A person commits an offence if they carry out building work over or near water services infrastructure without approval from the relevant water service provider.

- (1A) However, **subsection (1)** does not apply to building work that is carried out—
- (a) by a person authorised to do the work by a licensed access provider under the Railways Act 2005; and
  - (b) within a rail corridor under the Railways Act 2005. 5
- (1B) For the purposes of **subsection (1)**, building work is **near** water services infrastructure if—
- (a) it is less than 2 metres from a water services pipe that is less than 300 millimetres in diameter; or
  - (b) it is less than 10 metres from a water services pipe that is 300 millimetres or more in diameter. 10
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$20,000;
  - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$200,000. 15

Compare: 2022 No 77 s 401

*Offences relating to water supply network*

- 394** ~~Engaging intentionally or recklessly engaging in~~ conduct relating to water supply network that causes specified serious risk 20
- (1) ~~A person commits an offence if they intentionally or recklessly engage in conduct relating to a water supply network that causes a specified serious risk.~~
- (1) A person commits an offence if they—
- (a) engage in conduct relating to a water supply network that causes a specified serious risk; and 25
  - (b) intentionally cause, or are reckless as to causing, that specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a term of imprisonment not exceeding 2 years or a fine not exceeding \$75,000, or both: 30
  - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1.5 million.

Compare: 2022 No 77 s 402

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

- (1) A person commits an offence if they negligently engage in conduct relating to a water supply network that causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,— 5
- (a) for an individual, to a fine not exceeding \$50,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1 million.

Compare: 2022 No 77 s 403

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**395A Discharging into water supply network without authorisation**

- (1) A person commits an offence if they discharge anything into a water supply network without written authorisation from a water service provider.
- (2) A person who commits an offence against this section is liable on conviction,— 15
- (a) for an individual, to a fine not exceeding \$50,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.

Compare: 2022 No 77 s 416

**395B Connecting to or disconnecting from water supply network or supplying water to another person without authorisation** 20

- (1) A person commits an offence if they—
- (a) knowingly connect to or disconnect from, or take water from, a water supply network without authorisation from a water service provider; or
- (b) having been supplied with water by a water service provider from a water supply network, knowingly and without authorisation from the water service provider extend their network connection to another property that should be party to a service agreement with the water service provider. 25
- (2) A person who commits an offence against this section is liable on conviction,— 30
- (a) for an individual, to a fine not exceeding \$50,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.

Compare: 2022 No 77 s 417

35

*Offences relating to wastewater networks*

- 396 Disposing Intentionally or recklessly disposing of materials or substances into wastewater network causing specified serious risk** 5
- (1) ~~A person commits an offence if they intentionally or recklessly dispose of materials or substances in, or discharges them into, a wastewater network and that disposal or discharge causes a specified serious risk.~~
- (1) A person commits an offence if they—
- (a) dispose of or discharge materials or substances into a wastewater network and that disposal or discharge causes a specified serious risk; and
- (b) intentionally cause, or are reckless as to causing, that specified serious risk. 10
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a term of imprisonment not exceeding 2 years or a fine not exceeding \$75,000, or both: 15
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1.5 million.
- Compare: 2022 No 77 s 404
- 397 Negligently disposing of materials or substances into wastewater network causing specified serious risk** 20
- (1) A person commits an offence if they negligently dispose of materials or substances in, or discharge them into, a wastewater network and that disposal or discharge causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,— 25
- (a) for an individual, to a fine not exceeding \$50,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1 million.
- Compare: 2022 No 77 s 405
- 398 Connecting to, disconnecting from, or discharging into wastewater network without authorisation** 30
- (1) A person commits an offence if they connect to, disconnect from, or discharge material or substances into a wastewater network without the authorisation of a water service provider.
- (2) A person who commits an offence against this section is liable on conviction,— 35
- (a) for an individual, to a fine not exceeding \$100,000:

- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.

Compare: 2022 No 77 s 406

**399 ~~Engaging intentionally or recklessly engaging in conduct relating to wastewater network that causes specified serious risk~~** 5

- ~~(1) A person commits an offence if they intentionally or recklessly engage in conduct relating to a wastewater network that causes a specified serious risk.~~

**(1) A person commits an offence if they—**

- (a) engage in conduct relating to a wastewater network that causes a specified serious risk; and** 10

- (b) intentionally cause, or are reckless as to causing, that specified serious risk.**

- (2) A person who commits an offence against this section is liable on conviction,—**

- (a) for an individual, to a term of imprisonment not exceeding 2 years or a fine not exceeding \$75,000, or both:** 15

- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1.5 million.**

Compare: 2022 No 77 s 407

**400 ~~Negligently engaging in conduct relating to wastewater network that causes specified serious risk~~** 20

- (1) A person commits an offence if they negligently engage in conduct relating to a wastewater network that causes a specified serious risk.**

- (2) A person who commits an offence against this section is liable on conviction,—** 25

- (a) for an individual, to a fine not exceeding \$50,000:**

- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1 million.**

Compare: 2022 No 77 s 408

**401 ~~Discharging trade waste without trade waste permit~~** 30

- (1) A person commits an offence if they discharge trade waste into a wastewater network without a trade waste permit issued under a trade waste bylaw made under section 347 ~~section 155~~.**

- (2) A person who commits an offence against this section is liable on conviction,—** 35

- (a) for an individual, to a fine not exceeding \$500,000:**

- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$3 million.

Compare: 2022 No 77 s 409

#### 402 Breach of trade waste permit

- (1) A person commits an offence if they breach a trade waste permit issued under a trade ~~waste water~~ bylaw made under **section 347**~~section 455~~. 5
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$250,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$3 million. 10

Compare: 2022 No 77 s 410

#### *Offences relating to stormwater network*

#### 403 **Disposing intentionally or recklessly disposing of or discharging materials or substances into stormwater network causing specified serious risk** 15

- ~~(1) A person commits an offence if they intentionally or recklessly dispose of or discharge materials or substances into a stormwater network and the disposal or discharge causes a specified serious risk.~~

- (1) A person commits an offence if they—
- (a) dispose of or discharge materials or substances into a stormwater network and that disposal or discharge causes a specified serious risk; and 20
- (b) intentionally cause, or are reckless as to causing, that specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,— 25
- (a) for an individual, to a fine not exceeding \$200,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1.5 million.

Compare: 2022 No 77 s 411

#### 404 **Negligently disposing of or discharging materials or substances or materials into stormwater network causing specified serious risk** 30

- (1) A person commits an offence if they negligently dispose of or discharge materials or substances into a stormwater network and the disposal or discharge causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,— 35
- (a) for an individual, to a fine not exceeding \$50,000:

- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.

Compare: 2022 No 77 s 412

**405 ~~Engaging intentionally or recklessly engaging in conduct relating to stormwater network that causes specified serious risk~~** 5

- ~~(1) A person commits an offence if they intentionally or recklessly engage in conduct relating to a stormwater network that causes a specified serious risk.~~

(1) A person commits an offence if they—

- (a) engage in conduct relating to a stormwater network that causes a specified serious risk; and 10

- (b) intentionally cause, or are reckless as to causing, that specified serious risk.

- (2) A person who commits an offence against this section is liable on conviction,—

- (a) for an individual, to a term of imprisonment not exceeding 2 years or a fine not exceeding \$75,000, or both: 15

- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1.5 million.

Compare: 2022 No 77 s 413

**406 Connecting to or disconnecting from, or discharging materials or substances into, stormwater network without authorisation** 20

- (1) A person commits an offence if they, without authorisation from a water service provider,—

- (a) connect to or disconnect from a stormwater network; or  
(b) discharge materials or substances into a stormwater network. 25

- (2) A person who commits an offence against this section is liable on conviction,—

- (a) for an individual, to a fine not exceeding \$50,000:

- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000. 30

Compare: 2022 No 77 s 414

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

- (1) A person commits an offence if they negligently engage in conduct relating to a stormwater network that causes a specified serious risk. 35

- (2) A person who commits an offence against this section is liable on conviction,—

- (a) for an individual, to a fine not exceeding \$50,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$1 million.

Compare: 2022 No 77 s 415

Offence ~~Other offences relating to water supply network, wastewater network,~~ 5  
~~or and stormwater network~~

**408 Discharging into water supply network without authorisation**

- (1) ~~A person commits an offence if they discharge anything into a water supply network without written authorisation from a water service provider.~~
- (2) ~~A person who commits an offence against this section is liable on conviction,~~ 10
  - (a) ~~for an individual, to a fine not exceeding \$50,000:~~
  - (b) ~~for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.~~

Compare: 2022 No 77 s 416

15

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

- (1) ~~A person commits an offence if they—~~
  - (a) ~~knowingly connect to or disconnect from, or take water from, a water supply network without authorisation from a water service provider; or~~ 20
  - (b) ~~having been supplied with water by a water service provider from a water supply network, knowingly and without authorisation from the water service provider extend their network connection to another property that should be party to a service agreement with the water service provider.~~ 25
- (2) ~~A person who commits an offence against this section is liable on conviction,~~
  - (a) ~~for an individual, to a fine not exceeding \$50,000:~~
  - (b) ~~for a body corporate or an unincorporated body, to a fine not exceeding \$500,000.~~ 30

Compare: 2022 No 77 s 417

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

- (1) A person commits an offence if they knowingly carry out work on or in relation to a water supply network, wastewater network, or a stormwater network owned or operated by a water service provider without first— 35

- (a) notifying the water service provider of their intention to carry out the work; and
- (b) obtaining written authorisation from the water service provider to carry out the work on any terms or conditions that the water service provider thinks fit. 5
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$100,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$500,000. 10
- (3) A person does not commit an offence against this section if the work is carried out in accordance with a statutory authorisation.
- (4) It is a defence to an offence against this section if the work carried out was necessary to avoid an emergency, or to mitigate or remedy the effects of an emergency. 15
- ~~(5) Nothing in this section applies to work carried out on, in relation to, or near any green water services infrastructure, overland flow path, or watercourse that is part of, or relates to, a stormwater network.~~

Compare: 2022 No 77 s 418

*Offences relating to plans, permits, bylaws, directions, and compliance orders* 20

**411 Breach of source water risk ~~controlled drinking water catchment~~ management plan or permit**

- (1) A person commits an offence if they breach a prohibition, restriction, or requirement set out in—
- (a) a source water risk management plan issued under the Water Services Act 2021 ~~breach a prohibition, restriction, or requirement set out in a drinking water catchment plan issued under **section 143**~~; or 25
- (b) ~~breach a prohibition, restriction, or requirement in~~ a permit issued under a water services bylaw.
- (2) A person who commits an offence against this section is liable on conviction,— 30
- (a) for an individual, to a fine not exceeding \$20,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$100,000.

Compare: 2022 No 77 s 419

**412 Breach of duty ~~requirement, condition, authorisation, or prohibition~~ in stormwater network bylaw that causes specified serious risk**

- (1) A person commits an offence if they—

- (a) have a duty under a stormwater network bylaw made under **section 347**~~section 470~~; and
- (b) knowingly fail to comply with that duty and that non-compliance causes a specified serious risk.
- (2) A person who commits an offence against this section is liable on conviction,— 5
- (a) for an individual, to a fine not exceeding \$20,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$200,000.
- Compare: 2022 No 77 s 420 10
- 413 Failure to comply with water services bylaw relating to equipment or device that causes specified serious risk**
- (1) A person commits an offence if they—
- (a) have a duty under a water services bylaw made under **section 347** relating to equipment or devices; and 15
- (b) knowingly fail to comply with that duty and that non-compliance causes a specified serious ~~specified~~ risk.
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$20,000: 20
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$200,000.
- Compare: 2022 No 77 s 421
- 414 Failure to notify water service provider of notifiable risk or hazard that causes specified serious risk** 25
- (1) A person commits an offence if they—
- (a) have a duty to notify a water service provider of a notifiable risk or hazard under a bylaw made under **section 347**; and
- (b) knowingly fail to comply with that duty and that non-compliance causes a specified serious risk. 30
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$20,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$200,000. 35
- Compare: 2022 No 77 s 422

**415 Failure to comply with water use restriction or limit**

- (1) A person commits an offence if they—
- (a) are subject to a water use restriction or limit set out in a bylaw made under **section 347**; and
  - (b) knowingly fail to comply with that restriction or limit and that non-compliance causes a specified serious risk. 5
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$20,000:
  - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$100,000. 10

Compare: 2022 No 77 s 423

**416 Breach of bylaw relating to undertaking specified classes of work near, under, or above water supply ~~network-system~~, wastewater network, or stormwater network** 15

- (1) A person commits an offence if they knowingly fail to comply with a bylaw made under **section 347** regulating, restricting, or prohibiting the undertaking of specified classes of work near, under, or above a water supply ~~network-system~~, a wastewater network, or a stormwater network.
- (2) A person who commits an offence against this section is liable on conviction,— 20
- (a) for an individual, to a fine not exceeding \$20,000:
  - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$200,000.
- (3) A person does not commit an offence against this section if the work is undertaken in accordance with a statutory authorisation. 25
- (4) It is a defence against this section if ~~the defendant proves that~~—
- (a) the action or event to which the prosecution relates was necessary for the purposes of preventing, avoiding, or mitigating a specified serious risk; and 30
  - (b) the conduct of the defendant was reasonable in the circumstances; and
  - (c) the defendant took steps that were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred.
- (5) ~~Nothing in this section applies to work undertaken on, in relation to, or near any green water services infrastructure, overland flow path, or watercourse that is part of, or relates to, a stormwater network.~~ 35

Compare: 2022 No 77 s 424

- 417 Failure to comply with direction issued by compliance officer**
- (1) A person commits an offence if they fail to comply with a direction issued by a compliance officer under **section 371(1)(c) or 373(1)**.
- (2) A person who commits an offence against this section is liable on conviction,— 5
- (a) for an individual, to a fine not exceeding \$75,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$300,000.
- Compare: 2022 No 77 s 425
- 418 Failure to comply with compliance order or court order** 10
- (1) A person commits an offence if they fail to comply with a compliance order issued under **section 383** or an order of the court made under this Act.
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$75,000: 15
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$300,000.
- Compare: 2022 No 77 s 426
- 419 Tampering with water meter**
- (1) A person commits an offence if they, without the prior written authorisation of a water service provider,— 20
- (a) alter the index of, or in any other manner tamper with, a water meter; or
- (b) alter the position of a water meter.
- (2) A person who commits an offence against this section is liable on conviction,— 25
- (a) for an individual, to a fine not exceeding \$50,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$200,000.
- Compare: 2002 No 77 s 427
- Offences relating to duties associated with administration of Act* 30
- 420 Intentionally hindering ~~Hindering~~ or obstructing employee or agent of water service provider**
- (1) A person commits an offence if they intentionally hinder or obstruct an employee or agent of a water service provider who is performing a duty or function, or exercising a power, under this Act. 35
- (2) A person who commits an offence against this section is liable on conviction,—

- (a) for an individual, to a fine not exceeding \$10,000:
- (b) for a body corporate or an unincorporated body, to a fine not exceeding \$250,000.

Compare: 2022 No 77 s 428

**421 Intentionally threatening ~~Threatening~~ or assaulting employee or agent of water service provider** 5

- (1) A person commits an offence if they intentionally threaten or assault an employee or agent of a water service provider who is performing a duty or function, or exercising a power, under this Act.
- (2) A person who commits an offence against this section is liable on conviction,—
  - (a) for an individual, to a fine not exceeding \$50,000:
  - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$250,000.

Compare: 2022 No 77 s 429

15

**422 Pretending to be compliance officer, employee, or agent, or warrant holder of water service provider**

- (1) A person commits an offence if, with intent to deceive, ~~they pretend to be~~—
  - ~~(a) an employee or agent of a water service provider; or~~
  - ~~(b) a person who has been appointed as a compliance officer under **section 366**.~~
  - (a) they pretend to be a person who has been appointed as a compliance officer under **section 366**; or
  - (b) they pretend to be an employee or agent of a water service provider; or
  - (c) they pretend to be a person who holds a warrant under **section 377A** despite not holding such a warrant; or
  - (d) they act under a warrant under **section 347** after the termination of, as the case may be,—
    - (i) their appointment as a compliance officer of the territorial authority or water organisation; or
    - (ii) their authority to act on behalf of the territorial authority or water organisation.
- (2) A person who commits an offence against this section is liable on conviction,—
  - (a) for an individual, to a fine not exceeding \$50,000:
  - (b) for a body corporate or an unincorporated body, to a fine not exceeding \$250,000.

Compare: 2022 No 77 s 430

*Defences in prosecution for strict liability offences***423 Defences in prosecution for strict liability offences**

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

<b>Section</b>	<b>Description</b>
<b>398</b>	Connecting to, disconnecting from, or discharging into wastewater network without authorisation
<b>401</b>	Discharging trade waste without trade waste permit
<b>402</b>	Breach of trade waste permit
<b>408</b>	<del>Discharging into water supply network without authorisation</del>
<b>411</b>	Breach of <u>source water risk</u> <del>controlled drinking water catchment</del> management plan or permit
<b>417</b>	Failure to comply with direction issued by compliance officer
<b>418</b>	Failure to comply with compliance order or court order
<b>419</b>	Tampering with water meter

- (2) The defendant has a defence if they prove that— 5
- (a) the commission of the offence was due to—
- (i) the act or omission of another person; or
- (ii) an accident; or
- (iii) some other cause outside the defendant’s control; and
- (b) the defendant took all reasonable precautions and exercised due diligence to avoid the commission of the offence or offences of the same kind. 10
- (3) The defendant has a defence if they prove that—
- (a) the action or event to which the prosecution relates was necessary for the purposes of preventing, avoiding, or mitigating a specified serious risk; and 15
- (b) the conduct of the defendant was reasonable in the circumstances; and
- (c) the defendant took steps that were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred.
- (4) For the purposes of this section, the court may take into account all relevant matters, including— 20
- (a) the likelihood of the hazard or risk concerned, including a specified serious risk, occurring; and
- (b) the degree of harm that might result from the hazard or risk; and
- (c) what the person concerned knows, or ought reasonably to know, about— 25
- (i) the hazard or risk; and
- (ii) ways of eliminating or minimising the risk; and
- (d) the availability and suitability of ways to eliminate or minimise the risk.

## Subpart 4—Review of water services system

**424 Minister to initiate review**

- (1) The Minister must initiate a review of the water services system, as specified in section 425(1).—
- (a) no sooner than 54 months after the commencement of this Act; and 5
- (b) no later than 66 months after that commencement.
- (2) Before initiating a review, the Minister must consult all other Ministers of the Crown that the Minister considers appropriate.
- (3) The Minister initiates a review by—
- (a) preparing the terms of reference for the review under ~~clause-section~~ **426**; and 10
- (b) appointing a reviewer under ~~clause-section~~ **427**.

**425 Scope of review of water services system**

- (1) The review of the water services system must examine and report on the overall operation and effectiveness of water services legislation and local government arrangements for providing water services, including— 15
- (a) the performance and interaction of relevant regulators, government departments, and Crown entities; and
- (b) the effectiveness of relevant regulatory frameworks; and
- (c) the structure of local government arrangements for providing water services (including any arrangements that involve consumer trusts); and 20
- (d) any other matters identified by the Minister.
- (2) In this subpart, **water services legislation** includes the following:
- (a) this Act and all secondary legislation made under it;
- (b) the **Water Services Authority—Taumata Arowai Act 2020**: 25
- (c) the Water Services Act 2021;
- (d) Parts 4 **and 4A** of the Commerce Act 1986 and all secondary legislation made under that Act that relates to providing water services;
- (e) any other legislation that is relevant to local government and providing ~~the provision of~~ water services. 30

**426 Terms of reference**

The Minister must prepare the terms of reference for the review within the scope of the review specified in **section 425**.

**427 Minister must appoint reviewer**

- (1) The Minister must appoint a reviewer to conduct a review under this subpart ~~Part~~. 35

- (2) The reviewer must be 1 or more of the following:
- (a) the department responsible for the administration of this Act:
  - (b) another department that is listed in Part 1 of Schedule 2 of the Public Service Act 2020:
  - (c) any other person or panel of people that the Minister considers suitable to conduct the review. 5
- (3) After appointing the reviewer, the Minister must—
- (a) give the review’s terms of reference to the reviewer; and
  - (b) publish, by notice in the *Gazette*, the name (or names) of the reviewer and the review’s terms of reference. 10

#### 428 Conduct of review

- (1) The reviewer must conduct the review in accordance with the terms of reference that the Minister gives to the reviewer.
- (2) When conducting the review, the reviewer must consult the people the reviewer considers appropriate on the matters to be included in the report prepared under **section 430**. 15

#### 429 Reviewer’s power to request information

- (1) The reviewer may, by notice in writing, require any of the following entities to give the reviewer any information the reviewer considers necessary for conducting the review: 20
- (a) a water service provider:
  - (b) a local authority:
  - (c) the trustees of a consumer trust:
  - (d) the Commerce Commission:
  - (e) the Water Services Authority: 25
  - (f) a relevant public service agency (as defined in section 10 of the Public Service Act 2020):
  - (g) a relevant statutory entity (as defined in section 10(1) of the Crown Entities Act 2004):
  - (h) any other relevant person or body. 30
- (1A) However, the reviewer may not require the following officers of Parliament to give information under **subsection (1)**:
- (a) an Ombudsman appointed under the Ombudsmen Act 1975:
  - (b) the Parliamentary Commissioner for the Environment:
  - (c) the Controller and Auditor-General. 35
- (2) A notice must specify—

- (a) the information required; and
  - (b) the form in which the information must be given; and
  - (c) a reasonable time for giving the information.
- (3) An entity that receives a notice must give the required information to the reviewer in accordance with the notice unless— 5
- (a) withholding the information is necessary to protect the privacy of a living individual; and
  - (b) that necessity is not outweighed by the reviewer’s need for the information.
- Compare: 2022 No 77 ss 176, 469 10

### 430 Report

- (1) The reviewer must prepare a report on the review once the review is concluded.
- (2) The report must include the following:
- (a) the review’s terms of reference:
  - (b) the process that the reviewer followed: 15
  - (c) the issues that the reviewer examined:
  - (d) the reviewer’s ~~review’s~~ findings:
  - (e) the reviewer’s recommendations, including—
    - (i) any necessary or desirable amendments to any water services legislation; and 20
    - (ii) any necessary or desirable changes to the structure of local government arrangements for providing water services; and
    - (iii) any other necessary or desirable changes to other relevant regulatory schemes or the operation of relevant regulators:
  - (f) any actions the Minister might consider taking under Part 10 of the LGA 2002: 25
  - (g) any other matters that the reviewer considers appropriate.
- (3) On completing the report, the reviewer must promptly give it to the Minister.
- Compare: 2022 No 77 s 470

### 431 Minister’s obligations on receiving report 30

- (1) On receiving a report under **section 430**, the Minister must present a copy to the House of Representatives.
- (2) The Minister must consider the findings and recommendations in the report and take any further action that the Minister considers appropriate.

Subpart 5—Consequential amendments

**432 Consequential amendments**

Amend the legislation specified in **Schedule 12** as set out in that schedule.

## Schedule 1

### Transitional, savings, and related provisions

s 5

#### Part 1

#### Provisions relating to this Act as enacted

5

#### *Transfer of employees*

#### 1 Identification of affected employees

- (1) This clause applies when the responsibility for providing water services transfers from one water ~~service provider organisation~~ (~~provider organisation-A~~) to another water ~~service provider organisation~~ (~~provider organisation-B~~) (the **transfer**). 10
- (2) Before the transfer takes place, the chief executive of ~~provider organisation~~ A must identify—
- (a) those employees of ~~provider organisation~~-A whose employment at ~~provider organisation~~-A relates more to the water services being transferred to ~~provider organisation~~-B than to the functions that ~~provider organisation~~-A will retain after the transfer; and 15
- (b) those employees of ~~provider organisation~~-A who are not identified under **paragraph (a)** but whose employment with ~~provider organisation~~-A will cease as a result of the transfer. 20
- (3) An employee identified under **subclause (2)(a)** who ~~receives~~ ~~accepts~~ an offer of employment (whether the employee accepts the offer or not) from the chief executive of ~~provider organisation~~-B is not entitled to any payment or other benefit (including redundancy), as a result of the transfer, if the offer—
- (a) is for substantially the same position as the position the employee holds at ~~provider organisation~~-A before the transfer; and 25
- (b) is for employment in substantially the same general locality; and
- (c) is on the same, or better, terms and conditions as the employee's terms and conditions at ~~provider organisation~~-A.

#### 2 Continuous employment

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- (1) If an employee accepts an offer of employment described in **clause 1(3)**, their employment is to be treated as continuous for the purposes of any entitlements or benefits, whether legislative or otherwise.
- (2) To avoid doubt, the employment of an employee who accepts an offer of employment described in **clause 1(3)** by ~~provider organisation~~-B does not constitute new employment for the purposes of the Holidays Act 2003 or the KiwiSaver Act 2006. 35

### 3 Application

**Clauses 1 and 2** only apply in relation to a transfer that takes place before the date that is 5 years after the date on which this clause comes into force.

*Act previously called Taumata Arowai—the Water Services Regulator Act 2020*

### 4 References to previous Title

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(1) Every reference in any enactment or in any document to the Taumata Arowai—the Water Services Regulator Act 2020 must, unless the context otherwise provides, be read as a reference to the **Water Services Authority—Taumata Arowai Act 2020**.

(2) Every reference in any enactment or in any document to Taumata Arowai—~~the~~ the Water Services Regulator must, unless the context otherwise provides, be read as a reference to the Water Services Authority—Taumata Arowai.

### *Water services strategies*

### 5 Timing of first water services strategies

(1) Despite **Part 4** coming into force sooner,— 15

(a) a water service provider must prepare and adopt its first water services strategy under **section 190 or 191** no later than 30 June 2027; and

(b) a water service provider's first water services strategy must come into force on the earlier of—

(i) 1 July 2027; and 20

(ii) a date determined by the water service provider when it adopts the strategy.

(2) A water service provider's first water services strategy must ~~relate to the period~~—

(a) commence starting on the earlier of— 25

(i) 1 July 2027; and ~~or~~

(ii) the if the strategy comes into force on an earlier date determined under **subclause (1)(b)(ii)**; ~~that date~~; and

(b) continue in force until ending on 30 June 2030.

(3) However, this clause does not apply to a water organisation that is established after the date on which this clause comes into force (see section 191, which applies to a water organisation in those circumstances). 30

*Water services annual report***6 Timing of first water services annual report**

- (1) Despite **Part 4** coming into force sooner, a water service provider's first water services annual report under **section 203, 204, or 205** must be prepared in accordance with this clause.~~relate to the period—~~ 5
- (a) ~~starting on—~~
- (i) ~~1 July 2027; or~~
- (ii) ~~if the water service provider's water services strategy comes into force on an earlier date determined under **clause 5(1)(b)(ii)**, that date; and~~ 10
- (b) ~~ending on 30 June 2028.~~
- (2) If a water service provider's first water services strategy comes into force on or before 31 December 2026, the provider must prepare its first water services annual report for the period—
- (a) starting on the date on which the water services strategy comes into force; and 15
- (b) ending on 30 June 2027.
- (3) If a water service provider's first water services strategy comes into force on or after 1 January 2027, the provider must prepare its first water services annual report for the period— 20
- (a) starting on the date on which the water services strategy comes into force; and
- (b) ending on 30 June 2028.
- (4) However, this clause does not apply to a water organisation that is established after the date on which this clause comes into force (see **section 204**, which applies to a water organisation in those circumstances). 25

*Alternative form of funding impact statement***7 Alternative form of funding impact statement**

- (1) This clause applies if, when a water service provider prepares a water services strategy or a water services annual report, regulations have not been made to prescribe the form of a funding impact statement for the purposes of (as applicable)— 30
- (a) **clause 5(2)(e) of Schedule 3**; or
- (b) **clause 5 of Schedule 4.**
- (2) A water service provider must provide a funding impact statement in the following form set out in Schedule 2 of the Local Government (Financial Reporting and Prudence) Regulations 2014: 35

- (a) for the purposes of preparing a water services strategy, form 2; or
- (b) for the purposes of preparing a water services annual report, form 4.

*Council-controlled organisations as water organisations*

**8 Council-controlled organisations deemed to be water organisations**

- (1) This clause applies to a council-controlled organisation that,— 5
- (a) immediately before the ~~commencement~~ date on which this clause comes into force,— ~~was providing water services; and~~
    - (i) was providing water services; or
    - (ii) had been established for the purpose of providing water services; and 10
  - (b) intends ~~to continue~~ to provide water services on and after the ~~commencement~~ date on which this clause comes into force.
- (2) The council-controlled organisation is taken to be a water organisation for 6 months after the ~~commencement~~ date on which this clause comes into force (see the definition of water organisation in ~~section 4~~ section 4). 15
- (3) The council-controlled organisation will continue to be taken to be a water organisation after the expiry of the 6-month period if, within that period, the board of the organisation adopts a document that confirms that the organisation complies with the following requirements:— ~~undergoes changes so that it complies with—~~ 20
- (a) the requirement that a water organisation be a company, as set out in **section 37(1)** (unless exempted under **section 57**); ~~and~~
  - (b) the ownership requirements for water organisations set out in **section 37(2)(a), or (b), or (c)** (unless exempted under **section 57**); ~~and~~
  - (c) the role requirement set out in **section 38** (unless exempted under **section 57**); ~~and~~ 25
  - (d) the applicable requirements of board directors set out in section 40.
- (4) Within 3 years after the date on which this clause comes into force, each territorial authority that established the council-controlled organisation—
- (a) must enter into a transfer agreement under section 11 or 13 with the organisation; or 30
  - (b) if the council-controlled organisation has been disestablished and replaced with 1 or more new water organisations, must enter into a transfer agreement under section 11 with each new water organisation.
- (5) However, this clause does not apply to an Auckland water organisation under the Local Government (Auckland Council) Act 2009. 35

- (6) Despite **subclause (5)**, an Auckland water organisation under the Local Government (Auckland Council) Act 2009 is taken to be a water organisation under this Act.

*Existing notifications under LGA 2002*

**9 Certain notifications under LGA 2002 remain valid** 5

- (1) This clause applies to—
- (a) a notification provided under section 171(4) of the LGA 2002 to an owner of unoccupied land or an unoccupied building; and
  - (b) a notification of intention to enter land provided under section 181(5) of the LGA 2002 to the owner and occupier (if any) of land. 10
- (2) If a notification is in force on the date on which this clause comes into force,—
- (a) the notification continues to apply despite this Act coming into force; and
  - (b) the corresponding notice provisions in this Act do not apply.

## Schedule 2

### Contents of transfer agreements

**ss 11, 13**

<b>1</b>	<b><u>Parties, purpose, dates, and scope and nature of agreement</u></b>	<b>5</b>
	A transfer agreement must <del>describe</del> —	5
	(a) <u>name</u> the parties; and	
	(b) <u>state</u> the purpose of the agreement, including the section of this Act that requires or permits the agreement to be entered into; <del>and</del> ;	
	(c) <u>specify the geographical boundaries of the service area in which the water organisation will provide water services under the agreement; and</u>	10
	(d) <u>specify—</u>	
	(i) <u>the date on which the agreement is entered into; and</u>	
	(ii) <u>the date on which the agreement is to take effect.</u>	
<b>2</b>	<b>Matters transferred: general</b>	<b>15</b>
	A transfer agreement must describe the general nature of—	15
	(a) the responsibilities for <u>providing</u> <del>the provision of</del> water services being transferred; and	
	(b) any water services infrastructure and related assets being transferred.	
<b>3</b>	<b>Matters transferred: specifics</b>	<b>20</b>
<b>(1)</b>	A transfer agreement must specify in detail all matters being transferred in relation to the relevant water services, including the following:	<b>20</b>
	(a) statutory responsibilities, functions, duties, and powers concerning <u>providing</u> <del>the provision of</del> water services:	
	(b) ownership of infrastructure and related assets:	
	(c) liabilities:	25
	(d) responsibilities for <u>managing</u> <del>the management of</del> the water services:	
	(e) responsibilities for <u>operating</u> <del>the operation of</del> the water services:	
	<b>(ea)</b> <u>if the transfer agreement relates to providing stormwater services,—</u>	
	<b>(i)</b> <u>a current and accurate description of any stormwater service zones in the service area; and</u>	30
	<b>(ii)</b> <u>the responsibilities relating to stormwater service zones (if applicable):</u>	
	(f) resource consents and associated rights and functions (for example, the right to apply for renewal of a consent and the functions of monitoring and reporting on compliance with a consent):	35

- (g) contracts, including service agreements between the territorial authority and any other person.
- (2) For the purposes of **subclause (1)(c)**, the transfer agreement must include additional information relating to any liabilities, including the following:
- (a) the liabilities that relate to each water service: 5
- (b) any liabilities that are not specifically related to a particular water service:
- (c) an explanation of why a liability identified under **paragraph (b)** is being transferred under the agreement.
- 4 Matters not transferred** 10
- A transfer agreement must specify all matters referred to in **clause 3** that relate to water services and are not being transferred, including details about—
- (a) infrastructure and related assets that will continue to be owned by the territorial authority;
- (b) what is required of the water organisation in relation to— 15
- (i) managing ~~management of~~ the infrastructure and related assets; and
- (ii) operating ~~operation of~~ the infrastructure and related assets; and
- (c) any statutory responsibilities, functions, duties, and powers relating to providing ~~the provision of~~ water services that will be retained, and will 20  
continue to be performed and exercised, by the territorial authority.
- 5 Matters of shared interest**
- (1) A transfer agreement must specify in detail arrangements to be put in place between the parties to ensure that matters of shared interest are managed effectively and efficiently. 25
- (2) Those matters include how the parties to the agreement will work together in relation to—
- (a) when the territorial authority is performing and exercising its functions, duties, and powers under the Building Act 2004; and
- (b) land use planning and resource management planning (including consent 30  
processes); and
- (c) the performance or exercise of any other statutory functions, duties, and powers of the parties that are relevant to both parties (for example, emergency management).
- 6 Collection of charges, etc** 35
- (1) A transfer agreement must set out arrangements to be put in place for charging and revenue collection for the water services that are being transferred, including—

- (a) whether rates, fees, and other charges will be collected by the territorial authority or the water organisation; and
- (b) if the territorial authority will continue to collect any rates, fees, and other charges,—
- (i) how and when the territorial authority will pass revenue collected on to the water organisation (including details about transitional arrangements and the duration of those arrangements); and 5
- (ii) any associated fees and expenses that will be charged and retained by the territorial authority; and
- (iii) a confirmation that the territorial authority will provide the water organisation with sufficient revenue each financial year to enable the organisation ~~to undertake the capital and operating investment programme in the organisation's water services strategy for that year.~~ 10
- (A) to undertake the capital and operating investment programme in the organisation's water services strategy for that year; and 15
- (B) to comply with all relevant regulatory requirements; and
- (C) to be financially sustainable.
- (2) However, **subclause (1)(b)(iii)** does not apply if the territorial authority is collecting the rates, fees, and other charges as an agent of the water organisation. 20
- (3) If a territorial authority collects rates, fees, or other charges other than as an agent of a water organisation, the authority—
- (a) does so under the LGA 2002 and the Local Government (Rating) Act 2002; and 25
- (b) must include information relating to the rates, fees, or other charges in relevant documents prepared under Part 6 of the LGA 2002.
- (4) In this clause, **agent of the water organisation**, in relation to the capacity in which a territorial authority collects rates, fees, or other charges,— 30
- (a) means—
- (i) the transfer agreement provides that the territorial authority will collect the rates, fees, and other charges as an agent for the water organisation; and
- (ii) the water organisation is responsible for— 35
- (A) setting charges under **section 60**; and
- (B) determining the amount of revenue to be collected and the nature of charges imposed under this Act; but

- (b) does not include a territorial authority collecting rates, fees, and other charges when the territorial authority is responsible for—
- (i) setting rates, fees, and other charges; or
  - (ii) determining the amount of revenue and the nature of rates, fees, and other charges to be imposed. 5
- 7 Responsible decision makers for revenue and charging**
- (1) A transfer agreement must specify whether the territorial authority or the board of the water organisation will be responsible for making final decisions about the following matters:
- (a) the water organisation’s capital expenditure and operating expenditure for the water services it provides: 10
  - (b) the water organisation’s level of charges and revenue recovery for the water services.
- (2) If a transfer agreement specifies that the territorial authority will be responsible for making any final decision described in **subclause (1)**, the practical implications of that approach must be explained in the transfer agreement or the water organisation’s foundation documents, including— 15
- (a) the implications for the territorial authority and the water organisation; and
  - (b) the implications for the process of preparing the water organisation’s water services strategy and water services annual budget; and 20
  - (c) how the territorial authority will notify the water organisation of its final decision; and
  - (d) how the territorial authority will ensure that its process for making the final decision is transparent to its communities. 25
- 8 Other information in agreement**
- A transfer agreement must provide for all other matters, and contain all other information, that the territorial authority considers appropriate.

### Schedule 3

## Contents of water services strategy

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### *Strategic matters*

- |          |  |    |
|----------|--|----|
| <b>1</b> | <b>Groups of water services activities</b>   | 5  |
|          | A water services strategy must, in relation to each group of water services activities of a water service provider, identify—  |    |
|          | (a) the water services activities within the group of water services activities; and   |    |
|          | (b) the outcomes that the water service provider expects to achieve by providing the group of water services activities, including,—   | 10 |
|          | (i) in the case of a water service provider that is a territorial authority, any community outcomes that are relevant to providing water services; and   |    |
|          | (ii) in the case of a water organisation, the outcomes that the organisation's shareholders expect the organisation to achieve, as specified in the organisation's statement of expectations.  | 15 |
| <b>2</b> | <b>Water services strategy: strategic matters</b>  |    |
| (1)      | A water services strategy for a water service provider must include the following information:   | 20 |
|          | (a) the strategic priorities of the water service provider:  |    |
|          | (b) the objectives, <u>outcomes</u> , and expectations that apply to the water service provider, including—  |    |
|          | (i) the objectives specified in <b>section 15</b> ; and  |    |
|          | (ii) in the case of a water organisation, any <u>outcomes</u> <del>objectives</del> or expectations specified in the organisation's statement of expectations:   | 25 |
|          | (c) an overview of <del>the regulatory responsibilities and</del> regulatory requirements <del>that apply to the water service provider</del> :  |    |
|          | (d) an explanation of how the water service provider intends to achieve or meet—   | 30 |
|          | (i) the strategic priorities included under <b>paragraph (a)</b> ; and   |    |
|          | (ii) the objectives, <u>outcomes</u> , and expectations included under <b>paragraph (b)</b> (which must include how the water service provider intends to achieve the objective of managing and providing water services in a financially sustainable manner); and | 35 |

- (iii) ~~the regulatory responsibilities and~~ regulatory requirements included under **paragraph (c)**:
- (e) in the case of a water organisation, the measures and targets by which the water organisation's shareholders can assess the water organisation's performance in relation to its objectives and outcomes: 5
- (f) factors that the water service provider expects will have a significant impact on the provider, including the following:
- (i) any expected changes to the population in the water service provider's service area:
- (ii) any expected changes to the use of land in the water service provider's service area: 10
- (iii) the expected capital and operating costs required to address the expected changes specified under **subparagraphs (i) and (ii)**:
- (iv) any expected investment needed to meet objectives relating to housing growth and urban development: 15
- (v) any other significant issues affecting the water service provider's ability to maintain existing levels of service to consumers and to meet additional demands for water services:
- (g) information relating to a territorial authority's ~~land use and~~ resource management planning and land use planning in the water service provider's service area, including, in the case of a water organisation, how the organisation intends to respond to any relevant requirements that are included in the organisation's statement of expectations: 20
- (h) a description of any stormwater service zones in the provider's service area and of any proposals to change them. 25
- (2) The information required by **subclause (1)** must cover the period of at least 10 consecutive financial years to which the water services strategy relates (but not individually for each financial year), or such other period as is specified in this schedule or in **Part 4** of this Act.
- (3) A water services strategy must also, for a period of at least 30 consecutive financial years, identify— 30
- (a) any expected significant water infrastructure issues for the provider over that period; and
- (b) the principal options for managing any issues under **paragraph (a)**; and
- (c) the implications of the options under **paragraph (b)**. 35

*Operational matters***3 Water services strategy: operational matters**

- (1) A water services strategy for a water service provider must include the following information for each group of water services activities for which the water service provider is responsible: 5
- (a) the nature and scope of the main water services activities the water service provider proposes to undertake:
  - (b) any significant work the water service provider proposes to undertake relating to the water services activities included under **paragraph (a)**:
  - (c) a statement of the provider's intended levels of service provision, which must include— 10
    - (i) the performance measures that apply to the group of water services activities, including as applicable—
      - (A) the measures that the water service provider considers will enable the public to assess the level of service for major aspects of the group of water services activities; and 15
      - (B) any intended levels of service that the water service provider is required to publicly disclose in a water services strategy in accordance with a section 52P determination under ~~subpart 4 of Part 4 of~~ the Commerce Act 1986; and 20
      - (C) if no similar requirements have been set under **subsub-paragraph (B)**, any performance measures specified in a rule made under section 261B of the LGA 2002 that are relevant to a group of water services activities; and
    - (ii) the performance targets for each performance measure under **sub-paragraph (i)**; and 25
    - (ia) any relevant quality standards or performance requirements in a section 52P determination under the Commerce Act 1986; and
    - (iii) any intended changes to the level of service that the provider provided in the financial year before the first financial year covered by the water services strategy and the reasons for the changes; and 30
    - (iv) the reasons for any material change to the cost of water services.
- (2) The information required by **subclause (1)** must be provided—
- (a) in detail for each of the first 3 financial years covered by the strategy; and 35
  - (b) in outline for each of the subsequent financial years covered by the strategy.

#### 4 Water services strategy: consumer feedback

A water services strategy for a water service provider must include information about how the water service provider proposes to obtain feedback from consumers in relation to the water services that the water service provider provides to them. 5

#### *Financial matters*

#### 5 Water services strategy: financial matters

~~(1) A water services strategy for a water service provider must include, for each year to which the strategy relates, a complete set of financial statements for the water service provider that comply with generally accepted accounting practice.~~ 10

(1) A water services strategy for a water service provider must include, for each year to which the strategy relates,—

(a) if the water service provider is a territorial authority, a complete set of forecast financial statements for the provider that is prepared as if the territorial authority were a separate water service provider; or 15

(b) if the water service provider is a water organisation, a complete set of forecast financial statements for the water service provider.

(1A) However, the water services strategy need not include each of the statements referred to in **subclause (2)(d)** if— 20

(a) the water service provider is a territorial authority that provides storm-water services but not wastewater services or water supply services; and

(b) the information in those statements is included in the set of forecast financial statements under **subclause (1)(a)**.

(2) A water services strategy must include the following information for each group of water services activities for which the water service provider is responsible: 25

(a) the water service provider's intended approach to funding, revenue, and pricing, which must include detailed information on the following for the first 3 financial years to which the water services strategy relates: 30

(i) the water service provider's intended approach to pricing the water services it provides; and

(ii) the water service provider's intended approach to charging consumers; and

(iii) the water service provider's intended sources of funding and revenue: 35

(b) the amount of capital expenditure and operating expenditure that the provider has budgeted, in each financial year to which the water services strategy relates, for the purposes of—

- (i) improving the level of service; and
  - (ii) meeting additional demand for the group of water services activities; and
  - (iii) replacing existing assets in the water services infrastructure:
  - (c) the forecast financial statements that were prepared for the financial year immediately before the first financial year to which the strategy relates: 5
  - (d) each of the following statements for each financial year to which the water services strategy relates:
    - (i) a forecast statement of comprehensive revenue and expenses:
    - (ii) a forecast statement of cash flow: 10
    - (iii) a forecast statement of financial position:
  - (e) a funding impact statement for each financial year to which the water services strategy relates:
  - (f) any other information required by the Commerce Commission (*see section 194*). 15
- (2A) A water service provider’s intended approach to funding, revenue, and pricing under **subclause (2)(a)** must be consistent with any requirements set by the Commerce Commission under Part 4 of the Commerce Act 1986.
- (2B) The information provided under **subclause (2)(a)(i) and (ii)** must be accompanied by— 20
- (a) the water service provider’s intended schedule of prices and charges; and
  - (b) the methodologies that support the provider’s prices and charges.
- (2C) For the purposes of **subclause (2)(a)(iii)**, the information relating to the intended sources of funding and revenue must include—
- (a) the reasons for selecting each intended source of funding and revenue; and 25
  - (b) an indication of the amount or level of funding or revenue expected from each intended source; and
  - (c) an explanation of the intended funding mechanism for each intended source; and 30
  - (d) the reasons for selecting each intended funding mechanism.
- (3) For the purposes of **subclause (2)(b)**, if capital expenditure is budgeted for 2 or all of the purposes in that paragraph, the expenditure may be treated as if it were budgeted solely in relation to the primary purpose of the expenditure.
- (4) For the purposes of **subclause (2)(c)**, the previous year’s financial statements must be presented in a way that allows the public to compare the financial statements with the forecast financial statements for each of the financial years covered by the strategy. 35

- (5) However, a water services strategy is not required to include the financial statements required under **subclause (2)(d)** if it is the first water services strategy for the water service provider.
- (6) For the purposes of **subclause (2)(e)**, a funding impact statement must—
- (a) be in the prescribed form; and 5
  - (b) identify—
    - (i) the sources of funding to be used by the water service provider; and
    - (ii) the amount of funds expected to be produced from each source; and 10
    - (iii) how the funds are to be applied.
- (6A) In addition to the requirements in **subclause (6)(b)**, the prescribed form for a funding impact statement may require that the water services strategy includes information relating to 1 or more of the financial statements required under **subclause (2)(d)**. 15
- (6B) If the prescribed form for a funding impact statement does require the inclusion of the information described in **subclause (6A)**, that information need not also be included under **subclause (2)(d)**.
- ~~(7) Information provided under **subclause (2)(f)** must be provided in accordance with any requirements set by the Commerce Commission under Part 4 of the Commerce Act 1986.~~ 20
- 6 Water services strategy: additional matters for water organisations**
- (1) This clause applies to a water services strategy prepared by a water organisation.
- (2) In addition to the information required under **clause 5**, the water services strategy must include— 25
- (a) the organisation’s policy on giving security for borrowing; and
  - (b) the organisation’s objectives for holding and managing financial investments and equity securities; and
  - (c) the organisation’s quantified targets for returns on financial investments and equity securities; and 30
  - ~~(d) how the organisation has performed in relation to any performance indicators and measures set out in the organisation’s statement of expectations.~~
  - (e) if the water organisation decides to set separate water services charges for separately used or inhabited parts of a property under **section 67A**, a definition of separately used or inhabited. 35

*Information relating to water infrastructure***7 Water services strategy: water services infrastructure**

A water services strategy for a water service provider must outline the most likely scenario for managing the water service provider's water services infrastructure assets over a period of at least 30 years and, in that context, must— 5

- (a) include estimates of the projected capital and operating expenditure associated with managing those assets—
  - (i) in each of the first 10 financial years covered by the strategy; and
  - (ii) in each subsequent period of 5 financial years covered by the strategy; and 10
- (b) identify, for each period described in **paragraph (a)**,—
  - (i) any significant decisions about capital expenditure the provider expects it will be required to make; and
  - (ii) when the provider expects it will be required to make those decisions; and 15
  - (iii) for each decision, the principal options the provider expects it will have to consider; and
  - (iv) the approximate scale or extent of the costs associated with each decision.

*Additional information and requirements* 20**8 Water services strategy: additional information and requirements**

A water services strategy for a water service provider must, in relation to any forecast financial statements and financial estimates included in the strategy,—

- (a) identify all the significant forecasting assumptions and risks underlying the financial estimates; and 25
- (b) without limiting **paragraph (a)**, identify the following assumptions on which the financial estimates are based:
  - (i) the water service provider's assumptions concerning the life cycle of significant water services infrastructure assets; and
  - (ii) the water service provider's assumptions concerning sources of funds for the future replacement of significant water services infrastructure assets; and 30
  - (iii) in relation to the scenario referred to in **clause 7**, the assumptions of the water service provider about—
    - (A) growth or decline in the demand for relevant services: 35
    - (B) increases or decreases in relevant levels of service; and

- (c) in any case where significant forecasting assumptions involve a high level of uncertainty,—
  - (i) identify the nature of that uncertainty; and
  - (ii) include an outline of the potential effects of that uncertainty on the financial estimates provided.

5

**9 Water services strategy: additional information for water organisations**

A water services strategy for a water organisation must include—

- (a) a summary of any comments provided by shareholders on a draft of the water services strategy (see **section 196**); and
- (b) an explanation of any significant changes that shareholders required the water organisation to make to the draft strategy; and
- (c) a statement as to whether shareholders approved the final water services strategy.

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## Schedule 4

### Contents of water services annual report

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#### *General requirements*

- |          |   |          |
|----------|---|----------|
| <b>1</b> | <b>Water services annual report: general requirements</b>   | <b>5</b> |
| (1)      | A water services annual report for a water service provider must contain information that will enable a person to make an informed assessment of the water service provider's operations and performance, including information that— |          |
|          | (a) compares the provider's intended activities and intended performance levels, as set out in the provider's water services strategy for the financial year, with the actual activities and performance levels; and                  | 10       |
|          | (b) explains any material differences between the provider's performance and the provider's water services strategy.  |          |
| (2)      | A water services annual report must, in relation to each group of water services activities of the water service provider,—   | 15       |
|          | (a) identify the water services activities within the group of water services activities; and   |          |
|          | (b) identify the outcomes and objectives to which the group of water services activities primarily contributes (as referred to in the provider's water services strategy); and  | 20       |
|          | (c) report the results of any measurement undertaken during the financial year of progress towards achieving those outcomes and objectives.   |          |

#### *Financial statements*

- |          |   |    |
|----------|---|----|
| <b>2</b> | <b>Water services annual report: financial statements</b>   |    |
| (1)      | A water services annual report for a water service provider must include the following information for the relevant financial year:   | 25 |
|          | <del>(a) a complete set of audited financial statements for the water provider that complies with generally accepted accounting practice; and</del>   |    |
|          | <u>(a) if the water service provider is a territorial authority, a complete set of audited financial statements for the provider that is prepared as if the territorial authority were a separate water service provider; and</u> | 30 |
|          | <u>(aa) if the water service provider is a water organisation, a complete set of audited financial statements for the water service provider; and</u>   |    |
|          | (b) for each group of water services activities—  |    |
|          | (i) a statement of comprehensive revenue and expense; and   | 35 |
|          | (ii) a statement of cash flows; and   |    |

- (iii) a statement of financial position; and
- (c) any other prescribed information.
- (2) A water services annual report must also include the ~~forecast~~ financial statements that were prepared for the financial year immediately preceding the first financial year to which the report relates. 5
- (3) The information provided—
  - (a) under **subclause (1)** must be presented in a way that allows a person to compare the financial statements with the forecast financial statements for the financial year covered by the report (~~which that~~ were included in the provider's water services strategy or water services annual budget): 10
  - (b) under **subclause (1)(c)** must be provided in the prescribed form.
- (4) However, the water services annual report need not include each of the financial statements referred to in **subclause (1)(b)** if—
  - (a) the water service provider is a territorial authority that provides storm-water services but not wastewater services or water supply services; and 15
  - (b) the information in those statements is included in the set of audited financial statements under **subclause (1)(a)**.

### 3 Water services annual report: water organisation

- (1) A water services annual report for a water organisation must specify the dividend, if any, that the organisation's shareholders have authorised the organisation to pay (or the maximum dividend that the organisation proposes to pay) for its equity securities (other than fixed interest securities). 20
- (2) ~~If a water organisation's shareholders authorise the organisation to pay a dividend, the financial principle in **section 16(1)(a)** does not apply with respect to the dividend.~~ 25
- (2) A water services annual report for a water organisation must include information about how the water organisation has performed in relation to any performance indicators and measures that the shareholders of the organisation use to monitor the organisation's performance and have included in the organisation's statement of expectations. 30

### 4 Water services annual report: capital expenditure

- (1) A water services annual report for a water service provider must include, for each group of water services activities provided by the water service provider, an audited statement that compares—
  - (a) the capital expenditure budgeted for the water service provider (as set out in the provider's water services strategy for the financial year); with 35
  - (b) the capital expenditure that the water service provider actually spent in the financial year.

- (2) The statement must show separately the water service provider's budgeted expenditure, and the provider's actual expenditure,—
- (a) to meet any additional demand for a group of water services activities; and
  - (b) to improve the level of service in relation to a group of water services activities; and 5
  - (c) to replace any assets that are part of the water services infrastructure.
- (3) For the purpose of **subclause (2)**, if capital expenditure is budgeted for 2 or all of the purposes in that subclause, the expenditure may be treated as if it were budgeted solely in relation to the primary purpose of the expenditure. 10

## 5 Water services annual report: funding impact statement

- (1) A water services annual report for a water service provider must include, for each group of water services activities provided by the water service provider, an audited ~~a~~ funding impact statement that—
- (a) is in the prescribed form; and 15
  - (b) identifies the water service provider's funds produced by each source of funding; and
  - (c) specifies how those funds were applied; and
  - (d) compares the information provided under **paragraphs (b) and (c)** with information included in the water service provider's water services strategy. 20
- (2) In addition to the requirements in **subclause (1)(b) to (d)**, the prescribed form for a funding impact statement may require that the water services annual report includes information relating to 1 or more of the financial statements required under **clause 2(1)(b)**. 25
- (3) If the prescribed form for a funding impact statement does require the inclusion of the information described in **subclause (2)**, that information need not also be included under **subclause (1)**.

## 6 Water services annual report: insurance of assets

- A water services annual report for a water service provider must include the following information in relation to the water service provider: 30
- (a) the total value of the assets in the water services infrastructure that are owned by the water service provider and that are insured:
  - (b) the maximum total amount for which those assets are insured:
  - (c) the total value of the assets in the water services infrastructure that are— 35
    - (i) owned by the water service provider; and
    - (ii) covered by a financial risk-sharing arrangement:

- (d) the maximum total amount available to the water service provider under those risk-sharing arrangements:
- (e) the total value of the assets in the water services infrastructure that are—
  - (i) owned by the water service provider; and
  - (ii) self-insured: 5
- (f) the value of any fund that maintained by the water service provider maintains for the purpose of self-insuring those assets.

*Statement of service*

**7 Water services annual report: statement of service**

A water services annual report for a water service provider must include, for each group of water services activities provided by the water service provider, an audited a statement of service that— 10

- (a) compares the actual level of service provided in relation to each group of water services activities with the intended service level; and
- (b) specifies whether any intended changes to the service levels were achieved; and 15
- (c) if there is a significant difference between the intended service level and the service level that was achieved, specifies the reasons for that difference.

*Statement of compliance* 20

**8 Water services annual report: statement of compliance**

- (1) A water services annual report for a water service provider must include a statement that all statutory requirements in relation to the water services annual report have been complied with.
- (2) In the case of a water service provider that is a territorial authority, the statement of compliance must be signed by— 25
  - (a) the mayor of the territorial authority; and
  - (b) the chief executive of the territorial authority.
- (3) In the case of a water organisation, the statement of compliance must be signed by— 30
  - (a) the chair of the board of the water organisation; and
  - (b) the chief executive of the water organisation.

*Consumer feedback*

**9 Water services annual report: results of consumer feedback**

A water services annual report must include information relating to— 35

- 
- (a) the results of any feedback sought from the water service provider's consumers in relation to the water services provided to them, as referred to in the provider's water services strategy (*see clause 4 of Schedule 3*); and
- (b) how the provider addressed, or proposes to address, any significant matters raised in the feedback. 5

**Schedule 5**  
**New Part 6 inserted into Schedule 1AA of Commerce Act 1986**

s 233

<b>Part 6</b>		
<b>Provisions relating to Local Government (Water Services) Act 2024</b>		<b>5</b>
<b>28</b>	<b>Interpretation in this Part</b>	
	In this Part, unless the context otherwise requires,—	
	<b>Preliminary Arrangements Act 2024</b> means the Local Government (Water Services Preliminary Arrangements) Act 2024	
	<b>section 52P determination</b> has the same meaning as in section 52C.	10
<b>29</b>	<b>Transition in respect of information disclosure requirements for purpose of economic regulation</b>	
(1)	The Commission must, before <b>1 July 2026</b> , make 1 or more section 52P determinations specifying how information disclosure regulation imposed under <b>subpart 12</b> of Part 4 of this Act will apply to any entities that are specified under section 39 of the Preliminary Arrangements Act 2024 as being subject to foundational information disclosure.	15
(2)	On <del>or</del> <u>and</u> after <b>1 July 2026</b> ,—	
(a)	that or those section 52P determinations apply to those entities; <del>and</del> <u>but</u>	
(b)	any foundational information disclosure requirements imposed under the Preliminary Arrangements Act 2024 <del>no longer apply to those entities</del> <u>continue to apply in relation to a financial year ending on 30 June 2026 if the disclosure date under section 44(1)(g) of that Act is on or before 31 December 2026 (and those requirements may be enforced under that Act, despite the commencement of the provisions of the Local Government (Water Services) Act 2024 that amend this Act).</u>	20 25
(3)	An entity may not be declared to be a specified entity under section 39 of the Preliminary Arrangements Act 2024 after the commencement of the Local Government (Water Services) Act <b>2024</b> .	
(4)	Any consultation undertaken under section 40 of the Preliminary Arrangements Act 2024 is treated as also having been undertaken for the purposes of <b>clause 32 of Schedule 7</b> of this Act.	30
<b>30</b>	<b>Transition in respect of economic regulation of Watercare Services Limited</b>	
(1)	In this clause, unless the context otherwise requires,—	35
	<b>end-date of the first regulatory period</b> means the end-date of the first time period in respect of economic regulation of Watercare Services Limited under	

- the Watercare charter made under Part 4 of the Preliminary Arrangements Act 2024, being—
- (a) the date specified under section 78(b)(ii) of that Act; or
  - (b) any earlier or later date determined by the Minister under **clause 31**.
- (2) The Commission must, before the end-date of the first regulatory period, make a section 52P determination specifying how price-quality regulation imposed under **subpart 12** of Part 4 of this Act will apply to Watercare Services Limited and any subsidiary of Watercare Services Limited under **section 57D** of this Act. 5
- (3) On and after that end-date,— 10
- (a) that section 52P determination applies to those entities; and
  - (b) any price-quality path set under the Watercare charter under the Preliminary Arrangements Act 2024 no longer applies to those entities.
- (4) Subject to this clause, Part 4 of the Preliminary Arrangements Act 2024 continues in force, and may be enforced under that Act, despite the commencement of the provisions of the Local Government (Water Services) Act **2024** that amend this Act. 15
- 31 Commission may recommend alteration of first regulatory ~~periods that apply~~ period that applies under Preliminary Arrangements Act 2024**
- (1) The Commission may recommend to the Minister responsible for the Preliminary Arrangements Act 2024 and the Minister responsible for this Act that the end-date of ~~any~~ the first regulatory period that applies under the Preliminary Arrangements Act 2024 be— 20
- (a) extended; or
  - (b) brought forward to an earlier date. 25
- (2) The Commission may make that recommendation only if it considers that the recommendation would better promote the purpose of Part 4 of this Act.
- (3) The Minister responsible for the Preliminary Arrangements Act 2024 may take that recommendation into account if acting under section 77 of that Act and may recommend to the Governor-General that the time period during which the charter applies for the purpose of section 78(b)(ii) of that Act be amended. 30
- 32 Transition for recovery of costs of Commission**
- (1) Levy regulations made under ~~section 57ZW~~ section 53ZE may provide for the recovery of the costs of the Commission in respect of the Commission's functions, powers, and duties under the Preliminary Arrangements Act 2024. 35
- (2) However, **subclause (1)** does not apply to expenses incurred by the Crown monitor in relation to monitoring Watercare that are referred to in section 89(1)(a) of the Preliminary Arrangements Act 2024 (which costs continue to be recoverable from Watercare under that section 89).

- (3) Any consultation referred to in **subclause (4)** must be treated as having been undertaken for the purposes of section 53ZE(4).
- (4) The consultation is any consultation undertaken by the Minister with suppliers of water services, or representatives of those suppliers, that—
- (a) occurred at any time between 1 November 2024 and 28 February 2025; 5  
and
  - (b) related to levies to meet the costs of performing the Commission’s functions, powers, and duties in connection with **subpart 12** of Part 4 and **Schedule 7** of this Act (and the costs of collecting the levy money).

**Schedule 6**  
**New Schedule 7 inserted into Commerce Act 1986**

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**Schedule 7**  
**Additional matters relating to regulation of water services** 5

s 57T

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**1 Overview**

- (1) This ~~schedule subpart~~ sets out additional matters for the purposes of **subpart 12** of Part 4 of this Act (which relates to the regulation of water services).
- (2) This ~~schedule subpart~~ also contains provisions about ring-fencing water services revenue. 5

**2 Interpretation in subpart 12 of Part 4 of this Act and this schedule**

- (1) In **subpart 12** of Part 4 of this Act and this schedule, unless the context otherwise requires,—

~~consumer means a person who consumes, uses, or is provided with a water service~~ 10

**consumer**—

- (a) means a person who consumes, uses, is provided with, or benefits from the provision of, a water service; and
- (b) includes a person who is liable to pay a serviceability charge under **section 62** of the Local Government (Water Services) Act 2024 15

**local government water service supplier**—

- (a) means either of the following:
- (i) a local authority (within the meaning of section 5 of the Local Government Act 2002):
- (ii) a water organisation (within the meaning of **section 4** of the Local Government (Water Services) Act 2024): 20
- (b) does not include the Chatham Islands Council (but that council may be declared to be regulated by an Order in Council under **section 57J**)

~~network, in respect of a water supply network or a stormwater network or a wastewater network, means the infrastructure and processes—~~ 25

- (a) ~~that are used to provide a water supply service or stormwater service or wastewater service (as the case may be); and~~
- (b) ~~that are owned by, or operated by, for, or on behalf of, a regulated supplier~~

**regulated supplier**, in relation to a water service, means— 30

- (a) a local government water service supplier to which **section 57B(1)** applies; or
- (b) a supplier of the water service that is declared to be regulated by an Order in Council under **section 57J**:-

**split decision-making model** means an arrangement for providing water services where a local government water service supplier makes 1 or more, but not all, decisions about capital and operating expenditure on a regulated water service or the level of charges or revenue recovery for a regulated water service 35

**water organisation** has the meaning given in **section 4** of the Local Government (Water Services) Act **2024**.

- (2) Any term or expression that is defined in the Water Services Act 2021 and used, but not defined, in this clause has the same meaning as in that Act.

## Part 1

### Ring-fencing of revenue

#### **3 Ring-fencing of revenue**

- (1) ~~Every person that is a regulated supplier in relation to 1 or more regulated water services must spend the revenue it receives from providing regulated water services on providing its own regulated water services (including on maintenance, improvements, and providing for growth).~~

#### **Example**

~~A local government water service supplier (**council A**) is a regulated supplier in relation to water supply services (for example for drinking water) and wastewater services. Council A receives revenue of \$100 million from providing water supply services and revenue of \$50 million from providing wastewater services. Council A must spend \$150 million on water supply services and wastewater services combined (but this subclause does not prevent cross-subsidisation between the 2 services).~~

- (2) ~~In addition, if the Commission considers it necessary, the Commission may make a section 52P determination relating to 1 or more regulated suppliers that may require the supplier to ensure that a portion of the revenue it receives from providing 1 or more regulated water services is invested in that or those regulated water services, including in a particular asset, expense category, project, programme, or type of regulated water services, or held in reserve for the same.~~
- (3) ~~Every regulated supplier of services to which this Part applies must comply with—~~
- ~~(a) the requirements of **subclause (1)**; and~~
  - ~~(b) every section 52P determination applying to the supplier under **subclause (2)** (as if the determination were made, and related to a type of regulation, under Part 4 of this Act).~~
- (4) ~~Section 87 (which relates to pecuniary penalties) applies to a regulated supplier on and from **1 July 2027** in respect of a contravention of this Part as if it were a contravention of a type of regulation under Part 4 of this Act that is referred to in section 87.~~
- (5) ~~The Commission is entitled to exercise any of its powers under this Act for the purpose of monitoring compliance by regulated suppliers with this Part.~~
- (6) ~~This clause does not limit **section 17(1)(a)** of the Local Government (Water Services) Act **2024**.~~

- ~~(7) This clause does not prevent a supplier from making a profit or paying a dividend to shareholders, but the Commission may take any profit or dividend into account when setting requirements under **subclause (2)**.~~
- 2A Application of this Part**  
This Part applies to every person that is a regulated supplier in relation to 1 or more regulated water services. 5
- 2B Purpose of this Part**  
The purpose of this Part is to ensure that regulated suppliers act in accordance with the following as applied to regulated water services:
- (a) the financial principle in **section 16(1)(a)** of the Local Government (Water Services) Act **2024**: 10
- (b) **section 16(3)(b)** of that Act.
- 3 Section 52P determinations may relate to requirement to ring-fence revenue**
- (1) If the Commission considers it necessary or desirable, the Commission may make 1 or more section 52P determinations relating to 1 or more regulated suppliers with requirements that give effect to the purpose of this Part, including requirements— 15
- (a) that may require the supplier to ensure that a portion of the revenue it receives from providing 1 or more regulated water services is invested in that or those regulated water services, including in a particular asset, expense category, project, programme, or type of regulated water service, or held in reserve for any of those matters: 20
- (b) that may set limits on any dividends paid by a water organisation, to the extent necessary or desirable to ensure the organisation acts in accordance with **section 16(3)(b)** of the Local Government (Water Services) Act **2024**. 25
- (2) Every regulated supplier of services must comply with every section 52P determination applying to the supplier under this clause (as if the determination were made, and related to a type of regulation, under Part 4 of this Act). 30
- (3) Section 87 (which relates to pecuniary penalties) and sections 87A, 87B, and 87C (which relate to compensation, an offence, and injunctions) apply to a regulated supplier on and from **1 July 2027** in respect of a contravention of **subclause (2)** (as if it were a contravention of a type of regulation under Part 4 of this Act that is referred to in those sections). 35
- (4) The Commission is entitled to exercise any of its powers under this Act for the purpose of monitoring compliance by regulated suppliers with a section 52P determination made under this clause.

## Part 2

### Additional matters for information disclosure regulation

- 4 Additional matters relating to information disclosure regulation under subpart 12 of Part 4**
- (1) This Part applies to a section 52P determination relating to information disclosure regulation imposed under **subpart 12** of Part 4 of this Act. 5
- (2) The Commission may have regard to the scale, complexity, and risk profile of each supplier (or a class of suppliers), or the type of water services being provided by each supplier (or class of supplier), to which the determination will apply (for example, by requiring more or less information to be disclosed). 10
- (3) In addition to the information referred to in section 53C(2), the determination may require 1 or more of the following to be disclosed:
- (a) consolidated information that includes information about goods or services that are not subject to regulation under Part 4 of this Act, in which case **clause 5** applies (and this ~~paragraph~~ ~~subparagraph~~ applies instead of section 53C(2)(k)): 15
- (b) information about the financing of regulated suppliers that includes information about goods or services that are not subject to regulation under Part 4 of this Act, in which case **clause 5** applies:
- (c) in relation to a local government water service supplier's provision of water services-supplier, information about how the supplier is supporting and enabling planning processes, growth, and housing and urban development and, in particular, the supplier's level of responsiveness in relation to those issues. 20
- (4) In addition to what it may do under section 53C(3), the section 52P determination may require independent audits, assurance, or other verification of disclosed information, and may impose requirements in connection with who may carry out the audit, assurance, or verification. 25
- (5) The Auditor-General is the auditor in respect of any public entity for which a section 52P determination requires independent audits, assurance, or other verification of disclosed information. 30
- (6) The Commission may gather information about regulated activities from any party holding that information (for example, a previously regulated supplier or a contracted party) for the relevant disclosure year or part of a disclosure year.
- 5 Section 52P determination may require supplier to provide additional information** 35
- (1) The purpose of this clause is to enable the Commission to monitor—
- (a) compliance with requirements to disclose information under Part 4 of this Act in relation to supplying water services; and

- (ab) compliance with **Part 1** of this schedule (which relates to ring-fencing of revenue); and
- (b) the ongoing capability of a supplier to raise finance with respect to its supply of water services by assessing the supplier's overall financial position. 5
- (2) A section 52P determination may require a supplier to disclose information referred to in **subclause (3)** only to the extent required to enable the Commission to monitor ~~either or both~~ 1 or more of the matters referred to in **subclause (1)**. 10
- (3) If a supplier supplies goods or services that are not incidental to or related to supplying water services (**other goods or services**), a section 52P determination may require the supplier to disclose— 10
- (a) consolidated financial statements, and any other information referred to in section 53C or **clause 4**, for all activities (including those related to the supply of other goods or services) undertaken by that supplier; and 15
- (b) consolidated financial statements, and any other information referred to in section 53C or **clause 4**, for supplying ~~the supply of~~ all other goods or services in aggregate; and
- (c) reconciliation of information provided under **paragraphs (a) and (b)** with information disclosed in accordance with information disclosure requirements applying to supplying water services; and 20
- (d) information about financing ~~the financing of~~ all activities (including those related to supplying ~~the supply of~~ other goods or services) undertaken by that supplier.
- (4) If a local government water service supplier operates a split decision-making model ~~makes 1 or more, but not all, decisions about capital and operating expenditure on a regulated water service or the level of charges or revenue recovery for a regulated water service (a split decision-making model)~~, a section 52P determination may require the supplier to disclose consolidated information that includes— 25
- (a) information about any other regulated supplier that makes 1 or more of the other of those decisions in that split decision-making model; and 30
- (b) information about other goods or services supplied by that other regulated supplier.
- Compare: 2023 No 54 s 36; 2024 No 31 s 45 35

### Part 3

#### Revenue threshold regulation

##### 6 Purpose of revenue threshold regulation

The purpose of revenue threshold regulation is to promote the ongoing recovery of revenue at a level that covers efficient costs, so that regulated suppliers invest in water services infrastructure to meet consumer demands. 5

##### 7 Section 52P determination to set out revenue thresholds

(1) A section 52P determination relating to water services that are subject to revenue threshold regulation must—

- (a) specify the services to which it applies; and 10
- (b) specify the suppliers to which it applies; and
- (c) specify either or both of the following (a **revenue threshold**):
  - (i) the maximum revenues that should be recovered by a regulated supplier; and
  - (ii) the minimum revenues that should be recovered by a regulated supplier. 15

(2) In specifying matters under **subclause (1)**, the Commission may consider either or both of the following:

- (a) any information provided under information disclosure regulation;
- (b) any other information it thinks fit. 20

##### 8 Effect of being subject to revenue threshold regulation

If a section 52P determination relating to revenue threshold regulation applies to a regulated supplier,—

- (a) the supplier is not required to comply with the revenue threshold (and section 52F does not apply); but 25
- (b) the Commission may exercise any of its powers under this Act for the purpose of monitoring the supplier's performance against the revenue threshold; and
- (c) the Commission must consider the supplier's performance against the revenue threshold before recommending ~~making a recommendation for~~ further regulation under **section 57E** (*see* **section 57F(1)(a)(iii)**). 30

## Part 4

### Quality regulation

#### 9 Purpose of quality regulation

The purpose of quality regulation is to regulate the quality ~~and performance~~ ~~(other than in relation to prices)~~ of water services supplied by regulated suppliers. 5

#### 10 Effect of being subject to quality regulation

A regulated supplier to which a section 52P determination relating to quality regulation applies must apply the quality paths set by the Commission in the determination in respect of all water services that are— 10

- (a) supplied by the supplier; and
- (b) specified in the determination.

#### 11 Section 52P determination to set out quality path requirements

(1) A section 52P determination relating to quality regulation must specify the quality paths that apply to each regulated supplier to which the determination applies. 15

(2) A quality path must specify the following:

- (a) the quality standards that a regulated supplier must meet;
- (b) the date or dates on which the quality path (or any part of it) takes effect;
- (c) the date or dates by which compliance must be demonstrated. 20

(3) In specifying a quality path, the Commission may have regard to the scale, complexity, and risk profile of each regulated supplier (or a class of regulated suppliers), or the type of water services being provided by each supplier (or class of supplier), in respect of which it will apply, for example, by doing either or both of the following: 25

- (a) undertaking a greater or lesser degree of scrutiny of a supplier (or class of suppliers) with respect to historical and forecast quality of supply;
- (b) setting quality standards at a more or less onerous level.

(4) A quality path may include incentives for a regulated supplier to maintain or improve its quality of supply, and those incentives may include (without limitation) either or both of the following: 30

- (a) compensation schemes that set minimum standards of performance and require the supplier to pay prescribed amounts of compensation to consumers if it fails to meet those standards:

- (b) the use of schemes that rate or rank various aspects of the supplier's performance in meeting the required quality standards or any performance requirements.

Compare: 2023 No 54 s 40

## **12 Other matters relating to quality path requirements**

5

- (1) A quality path does not apply to a regulated supplier until the date specified in the relevant section 52P determination.
- (2) Quality standards may be prescribed in any way the Commission considers appropriate (such as targets, bands, formulas, or timetables for responsiveness to consumers).

10

### **12A Reopening quality path if input methodology changes as result of appeal**

The Commission must reopen a quality path, and make a new quality path by amending the relevant section 52P determination in accordance with section 52Q, if—

- (a) an input methodology changes as a result of an appeal under section 52Z; and
- (b) had the input methodology applied at the time the quality path was set, it would have resulted in a materially different path being set.

15

Compare: 2023 No 54 s 47(2)

### **12B No other reopening of quality path**

20

Except as provided in **clause 12A**, the Commission must not reopen a quality path within a regulatory period on the grounds that an input methodology is made or changes.

Compare: 2023 No 54 s 47(1)

## **Part 5**

25

### **Performance requirement regulation**

#### **13 Purpose of performance requirement regulation**

The purpose of performance requirement regulation is to regulate the performance (other than in relation to prices) of water services supplied by regulated suppliers.

30

#### **14 Effect of being subject to performance requirement regulation**

A regulated supplier to which a section 52P determination relating to performance requirement regulation applies must comply with the performance requirements set by the Commission in the determination in respect of all water services that are—

35

- (a) supplied by the supplier; and

(b) specified in the determination.

**15 Section 52P determination to set out performance requirements**

- (1) A section 52P determination relating to performance requirement regulation must specify the performance requirements that apply to each regulated supplier to which the determination applies. 5
- (2) A performance requirement must specify the following:
- (a) the performance requirement that a regulated supplier must meet:
  - (b) the date or dates on which the requirement (or any part of it) takes effect:
  - (c) the date or dates by which compliance must be demonstrated.
- (3) In specifying a performance requirement, the Commission may have regard to the scale, complexity, and risk profile of each regulated supplier (or a class of regulated suppliers), or the type of water services being provided by each supplier (or class of supplier), in respect of which it will apply, for example, by doing either or both of the following: 10
- (a) undertaking a greater or lesser degree of scrutiny of a supplier (or class of suppliers) with respect to historical and forecast performance of supply: 15
  - (b) setting performance requirements at a more or less onerous level.
- (4) A performance requirement may include— 20
- (a) incentives for a regulated supplier to maintain or improve its performance, and those incentives may include (without limitation) either of the following:
    - (i) compensation schemes that set minimum standards of performance and require the supplier to pay prescribed amounts of compensation to consumers if it fails to meet those standards: 25
    - (ii) the use of schemes that rate or rank various aspects of the supplier's performance in meeting the performance requirement; and
  - (b) any of the following requirements:
    - (i) requirements to adopt a particular approach to risk management:
    - (ii) requirements in relation to the condition of assets and remaining asset life: 30
    - (iii) requirements to make particular types of investment:
    - (iv) requirements to provide information about any investments planned for a particular period:
    - (v) requirements to deliver particular outputs: 35
    - (vi) requirements to consult the Commission about certain kinds of investments and investment decisions:
    - (vii) requirements to adopt asset management policies and practices:

<ul style="list-style-type: none"> <li>(viii) reporting requirements, including—           <ul style="list-style-type: none"> <li>(A) to whom reports must be made; and</li> <li>(B) the timing of reports; and</li> <li>(C) special reporting requirements in asset management plans, if the regulated <u>supplier</u> <del>water service provider</del> fails to meet the quality standards <u>or other performance requirements</u>; and</li> <li>(D) any other matters relating to reporting, including requirements for additional information:</li> </ul> </li> <li>(ix) requirements that any disclosed information, or any information from which disclosed information is derived, be verified by statutory declaration or certified (in the form specified by the Commission) as true and accurate:</li> <li>(x) requirements to undertake cost-benefit analysis before specified projects are begun:</li> <li>(xi) requirements relating to consultation and engagement with consumers:</li> <li>(xii) requirements based on comparative benchmarking of efficiency.</li> </ul>	<p>5</p> <p>10</p> <p>15</p>
Compare: 2023 No 54 s 40	
<b>16 Other matters relating to performance requirements</b>	20
(1) A performance requirement does not apply to a regulated supplier until the date specified in the relevant section 52P determination.	
(2) Performance requirements may be prescribed in any way the Commission considers appropriate (such as targets, bands, formulas, or timetables for responsiveness to consumers).	25
<b>Part 6</b>	
<b>Price-quality regulation</b>	
<b>17 Purpose of price-quality regulation</b>	
The purpose of price-quality regulation is to regulate the price, quality, and performance of water services supplied by regulated suppliers.	30
<b>18 Effect of being subject to price-quality regulation</b>	
A regulated supplier to which a section 52P determination relating to price-quality regulation applies must apply the price-quality paths set by the Commission in the determination in respect of all water services that are—	
(a) supplied by the supplier; and	35
(b) specified in the determination.	

<b>19</b>	<b>Section 52P determination to set out price-quality path requirements</b>	
(1)	A section 52P determination relating to price-quality regulation must specify the price-quality paths that apply to each regulated supplier to which the determination applies.	
(2)	A price-quality path must specify the following:	5
	(a) the regulatory period to which it applies (including specifying whether the period is common to all regulated suppliers or specific to 1 or more suppliers):	
	(b) in relation to prices, 1 or more of the following:	
	(i) the maximum price or prices that a regulated supplier may charge:	10
	(ii) the minimum price or prices that a regulated supplier may charge:	
	(iii) the maximum revenues that a regulated supplier may recover:	
	(iv) the minimum revenues that a regulated supplier may recover:	
	(c) the quality standards that a regulated supplier must meet:	
	(d) the date or dates on which the price-quality path (or any part of it) takes effect:	15
	(e) the date or dates by which compliance must be demonstrated.	
(3)	A price-quality path may include circumstances in which the path may be reconsidered during a regulatory period.	
(4)	In specifying a price-quality path, the Commission may have regard to the scale, complexity, and risk profile of each regulated supplier (or a class of regulated suppliers), or the type of water services being provided by each supplier (or class of supplier), in respect of which it will apply, for example, by doing any 1 or more of the following:	20
	(a) undertaking a greater or lesser degree of scrutiny of a supplier (or class of suppliers) with respect to historical and forecast prices, expenditure, performance, and quality of supply:	25
	(b) setting higher or lower maximum prices or revenues:	
	(c) setting higher or lower minimum prices or revenues:	
	(d) setting quality standards or performance requirements at a more or less onerous level.	30
(5)	A price-quality path may include—	
	(a) incentives for a regulated supplier to maintain or improve its quality of supply, and those incentives may include (without limitation) any of the following:	35
	(i) penalties by way of a reduction in the supplier's maximum prices or revenues based on whether, or by what amount, the supplier fails to meet the required quality standards or any performance requirements:	

- (ii) rewards by way of an increase in the supplier's maximum prices or revenues based on whether, or by what amount, the supplier meets or exceeds the required quality standards or any performance requirements:
- (iii) compensation schemes that set minimum standards of performance and require the supplier to pay prescribed amounts of compensation to consumers if it fails to meet those standards: 5
- (iv) the use of schemes that rate or rank various aspects of the supplier's performance in meeting the required quality standards or any performance requirements; and 10
- (b) performance requirements, including any of the following:
- (i) requirements to adopt a particular approach to risk management:
- (ii) requirements in relation to the condition of assets and remaining asset life:
- (iii) requirements to make particular types of investment: 15
- (iv) requirements to provide information about any investments planned for a particular period:
- (v) requirements to deliver particular outputs:
- (vi) requirements to consult the Commission about certain kinds of investments and investment decisions: 20
- (vii) requirements to adopt asset management policies and practices:
- (viii) reporting requirements, including—
- (A) to whom reports must be made; and
- (B) the timing of reports; and
- (C) special reporting requirements in asset management plans, if the regulated ~~supplier-water service provider~~ fails to meet the quality standards or other performance requirements; and 25
- (D) any other matters relating to reporting, including requirements for additional information: 30
- (ix) requirements that any disclosed information, or any information from which disclosed information is derived, be verified by statutory declaration or certified (in the form specified by the Commission) as true and accurate:
- (x) requirements to undertake cost-benefit analysis before specified projects are begun: 35
- (xi) requirements relating to consultation and engagement with consumers:
- (xii) requirements based on comparative benchmarking of efficiency.

(6)	A regulatory period must be at least 3 years but not more than 6 years. Compare: 2023 No 54 s 43	
<b>20 Other matters relating to price-quality paths</b>		
(1)	Quality standards and performance requirements may be prescribed in any way the Commission considers appropriate (such as targets, bands, formulas, or timetables for responsiveness to consumers).	5
(2)	A price-quality path does not apply to a regulated supplier until the date specified in the relevant section 52P determination.	
<b>21 Wash-up mechanism for maximum revenues specified in price-quality paths</b>		
(1)	This clause applies when the Commission specifies, in the price-quality paths for a regulatory period, the maximum or minimum revenues that a regulated supplier may recover.	10
(2)	The Commission may, in calculating the maximum or minimum revenues, apply a wash-up mechanism that provides for any over-recovery or under-recovery of revenue by the regulated supplier during the previous regulatory period (if applicable) to be applied in a manner that is equivalent in present-value terms (as calculated in the manner that the Commission thinks fit) over 1 or more future regulatory periods.	15
(3)	The reference to <b>previous regulatory period</b> in <b>subclause (2)</b> includes any period that applied under the Watercare charter made under Part 4 of the Local Government (Water Services Preliminary Arrangements) Act 2024. Compare: 2023 No 54 s 44	20
<b>22 Smoothing revenues and prices</b>		
(1)	This clause applies when the Commission specifies maximum or minimum prices or maximum or minimum revenues for the purposes of <b>clause 19(2)(b)</b> .	25
(2)	The Commission may calculate the maximum or minimum price or revenue in a manner that is equivalent in present-value terms (as calculated in the manner that the Commission thinks fit) over 2 or more regulatory periods (for example, by altering depreciation) if, in the Commission's opinion, it is necessary or desirable to do so for either or both of the following reasons:	30
(a)	to provide for the ability of a regulated supplier to obtain finance:	
(b)	to minimise price shocks to consumers.	
Compare: 2023 No 54 s 45		

<b>23</b>	<b>Reopening price-quality path if input methodology changes as result of appeal</b>	
(1)	The Commission must reopen a price-quality path, and make a new price-quality path by amending the relevant section 52P determination in accordance with section 52Q, if—	5
	(a) an input methodology changes as a result of an appeal under section 52Z; and	
	(b) had the input methodology applied at the time the price-quality path was set, it would have resulted in a materially different path being set.	
(2)	When making a new price-quality path under <b>subclause (1)</b> , the Commission must apply claw-back.	10
	Compare: 2023 No 54 s 47(2)	
<b>24</b>	<b>No other reopening of price-quality path</b>	
	Except as provided in <b>clause 23</b> , the Commission must not reopen a price-quality path within a regulatory period on the grounds that an input methodology is made or changes.	15
	Compare: 2023 No 54 s 47(1)	
<b>Part 7</b>		
<b>Additional matters for input methodologies</b>		
<b>25</b>	<b>When Commission must or may determine input methodologies</b>	20
(1)	The Commission—	
	(a) must determine input methodologies in respect of information disclosure regulation and price-quality regulation (in accordance with <b>clause 28</b> in the case of initial input methodologies); and	
	(b) may determine input methodologies in respect of quality regulation.	25
(2)	<b>Subclause (1)(a)</b> does not limit <b>section 57N</b> (which provides an exception for periods before the relevant date).	
<b>26</b>	<b>How input methodologies apply</b>	
(1)	An input methodology relating to the supply of water services must be applied—	30
	(a) by each relevant regulated supplier in accordance with the relevant section 52P determination; and	
	(b) in relation to an input methodology that is not specified in a section 52P determination ( <i>see</i> <b>clause 27(5)</b> ), by each supplier to which the relevant input methodology applies; and	35
	(c) by the Commission in recommending, deciding, or determining—	

- (i) how regulation under Part 4 of this Act should apply to water services; or
- (ii) the prices or quality standards applying to water services.
- (2) However, **subclause (1)(c)** does not apply to a section 52P determination for information disclosure regulation or price-quality regulation if the determination is made before the initial input methodology has been determined for that regulation in accordance with **clause 28**. 5
- (3) This clause applies instead of section 52S in relation to supplying ~~the supply of~~ water services.
- 27 Additional matters covered by input methodologies** 10
- (1) In addition to the matters set out in section 52T(1), the input methodologies relating to water services must include, to the extent applicable to the type of regulation under consideration, methodologies for capital expenditure proposals, including the following:
- (a) requirements that the regulated suppliers must meet, including the scope and specificity of information required, the extent of independent verification, assurance, and audit, and the extent of consultation and agreement with other parties; and 15
- (b) the criteria the Commission will use to evaluate capital expenditure proposals; and 20
- (c) time frames and processes for evaluating capital expenditure proposals, including what happens if the Commission does not comply with those time frames.
- (2) Section 52T(2)(a) applies to the additional ~~matter~~ matters in **subclause (1)**.
- (3) In determining an input methodology, the Commission may have regard to the scale, complexity, and risk profile of each regulated supplier (or a class of regulated supplier), or the type of water services being provided by each supplier (or class of supplier), in respect of which the methodology will apply (for example, by specifying the matters referred to in section 52T(1) and **subclause (1)** in a greater or lesser level of detail). 25 30
- (4) An input methodology may relate to all regulated suppliers or to a class of regulated suppliers or to 1 or more regulated suppliers.
- (5) If the Commission determines an input methodology that is not specified in a 52P determination, the Commission must ensure that the input methodology— 35
- (a) states clearly that it is an input methodology of the sort referred to in **clause 26(1)(b)**; and
- (b) specifies the suppliers to which it applies; and
- (c) specifies the water services in respect of which it applies; and
- (d) sets out any time frames that must be complied with or that apply; and

- (e) is consistent with Part 4 of this Act ~~this Part~~.
- (6) Section 52T(3) does not apply to water services.
- 28 Timing of initial input methodologies for information disclosure and price-quality regulation**
- (1) The Commission must determine initial input methodologies relating to information disclosure regulation under **subpart 12** of Part 4 of this Act before the relevant date. 5
- (2) If 1 or more suppliers become subject to price-quality regulation under **subpart 12** of Part 4 of this Act before the tenth anniversary of the commencement of this clause, the Commission must determine initial input methodologies relating to that regulation before the relevant date. 10
- (3) In this clause, **relevant date** means—
- (a) the tenth anniversary of the commencement of this clause:
- (b) an earlier or a later date specified in the *Gazette* under **subclause (4)**.
- (4) The following apply for the purposes of **subclause (3)(b)**: 15
- (a) the Minister may specify a date by notice in the *Gazette* if the Commission agrees to the date:
- (b) the Minister and the Commission may agree to different dates for ~~difference~~ different types of regulation and for different regulated suppliers or groups of regulated suppliers. 20
- (5) **Clause 25(1)(a)** is subject to this clause.
- 29 Commission may determine initial input methodologies relating to quality regulation after other methodologies**
- The Commission may, in respect of a regulated supplier (or a class of regulated suppliers), determine initial input methodologies relating to quality regulation of water services, at any time after the initial input methodologies relating to information disclosure regulation or price-quality regulation of that supplier (or those suppliers) are determined under **clause 28**. 25
- 30 ~~Commission may direct regulated supplier to comply with relevant input methodology requirement~~** 30
- (1) ~~If satisfied that a regulated supplier has failed to comply with a requirement in a relevant input methodology, the Commission may, by written notice, direct the supplier to comply with the requirement.~~
- (2) ~~In this clause, **relevant input methodology** means an input methodology that is not specified in a section 52P determination (see **clause 26(1)(b)**).~~ 35
- 31 ~~Regulated supplier must comply with direction from Commission~~**
- ~~A regulated supplier that receives a direction from the Commission under **clause 30** must comply with it.~~

<b>30</b>	<b><u>Commission may seek court order for contravention of input methodology set outside of determination</u></b>	
	<u>Sections 87 to 87C apply to a regulated supplier in respect of a contravention of an input methodology of the sort referred to in <b>clause 26(1)(b)</b> as if it were a contravention of a type of regulation under Part 4 of this Act that is referred to in those sections.</u>	5
<b>Part 8</b>		
<b>Miscellaneous</b>		
<b>32</b>	<b>Consultation on section 52P determination</b>	
(1)	The Commission must consult interested parties before making a section 52P determination relating to water services.	10
(2)	However, section 52Q applies to an amendment of a section 52P determination relating to water services (in particular, the determination may be amended in a non-material way without prior consultation).	
<b>33</b>	<b>Monitoring compliance with certain requirements</b>	15
(1)	<b>Subclause (2)</b> applies for the purpose of monitoring compliance with any requirement imposed by this schedule or by a section 52P determination made for the purposes of <b>subpart 12</b> of Part 4 of this Act.	
(2)	The Commission may, in addition to exercising its powers under section 98, issue a written notice to a regulated supplier requiring it to provide any or all of the following:	20
(a)	a written statement as to whether the supplier has complied with the requirement:	
(b)	a report on the written statement that is signed by a person that the Commission considers to be a suitably qualified and experienced independent expert in accordance with any form specified by the Commission:	25
(c)	sufficient information to enable the Commission to properly determine whether all applicable requirements have been complied with:	
(d)	a certificate, in the form specified by the Commission and signed by at least 1 board member of the supplier, or, if there is no board, the person who operates the supplier, confirming the truth and accuracy of any information provided under this clause.	30
(3)	<b>Subclause (4)</b> applies for the purpose of monitoring a regulated supplier's performance against a revenue threshold.	
(4)	The Commission may, in addition to exercising its powers under section 98, issue a written notice to a regulated supplier requiring it to provide a written statement as to whether the supplier has recovered revenues in accordance with	35

- a revenue threshold (and, if not, a statement of reasons why it has not recovered revenues within the threshold).
- (5) The supplier must comply with a notice issued under **subclause (2) or (4)** within the time frame, and in the manner, specified in the notice.  
Compare: 2023 No 54 ss 39(2), 42(2) 5
- 34 Information sharing with regulatory agencies in relation to water services**
- (1) The Commission may provide a regulatory agency with any information, or a copy of any document, that it—
- (a) holds in relation to performing or exercising ~~the performance or exercise of~~ its functions, duties, or powers under this Act; and 10
- (b) considers may assist the regulatory agency in performing or exercising ~~the performance or exercise of~~ the regulatory agency's functions, duties, or powers in relation to water services.
- (2) A regulatory agency may provide the Commission with any information, or a copy of any document, that it— 15
- (a) holds in relation to performing or exercising ~~the performance or exercise of~~ its functions, duties, or powers under or in relation to any legislation; and
- (b) considers may assist the Commission in performing or exercising ~~the performance or exercise of~~ its functions, duties, or powers under this Act in relation to water services. 20
- (3) If **subclause (1) or (2)** applies, the Commission or the regulatory agency (as the case may be) may impose conditions that it thinks fit relating to providing ~~the provision of~~ the information or document, including conditions relating to— 25
- (a) the storage and use of, or access to, anything provided:
- (b) the copying, returning, or disposing of copies of any documents provided.
- (4) This clause applies— 30
- (a) despite anything to the contrary in any contract, deed, or document; but
- (b) subject to any legislation.
- (5) In this clause, **regulatory agency** means any of the following: 35
- (a) the Water Services Authority—Taumata Arowai:
- (b) the Department of Internal Affairs, including any statutory officer who carries out work for that Department:
- (c) the Ministry for the Environment, including any statutory officer who carries out work for that Ministry:

- (d) the Ministry of Business, Innovation, and Employment, including any statutory officer who carries out work for that Ministry:
- (da) the Auditor-General:
- (e) a regional council or a unitary authority (within the meaning of section 5 of the Local Government Act 2002).

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### 35 Commission may use or respond to information

- (1) In performing its functions under this Act in relation to water services, the Commission may—do any of the following:
  - (a) consider, summarise, analyse, or use any information that it considers relevant;~~and:~~
  - (ab) provide information to the public about any of its activities under **paragraph (a):**
  - (b) make comments on any information provided publicly by regulated suppliers or the Water Services Authority—Taumata Arowai under any legislation dealing with water services.
- (2) This clause does not limit other powers in this or any other Act.

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Compare: 2023 No 54 s 4(3), (4)

**Schedule 7**  
**New Part 10 inserted into Schedule 1AA of Local Government Act**  
**2002**

s 254

<b>Part 10</b>	5
<b><u>Provision-Provisions</u> relating to Local Government (Water Services) Act 2024</b>	
<b>58A Interpretation</b>	
<u>In this Part,—</u>	
(a) <u>2024 Act means the Local Government (Water Services) Act 2024; and</u>	10
(b) <u>the following terms have the same meanings as in section 4 of the 2024 Act:</u>	
(i) <u>group of water services activities:</u>	
(ii) <u>water organisation:</u>	
(iii) <u>water services:</u>	15
(iv) <u>water services annual report:</u>	
(v) <u>water service provider:</u>	
(vi) <u>water services strategy.</u>	
<b>59 Transitional provision relating to financial statements</b>	
(1) This clause applies to a territorial authority's annual report adopted under section 98 for the financial year ending on 30 June 2027.	20
(2) In addition to the information required by Part 3 of Schedule 10, the annual report must include—	
(a) <del>a <u>an audited</u></del> statement of comprehensive revenue and expense; and	
(b) <del>a <u>an audited</u></del> statement of cash flows; and	25
(c) <del>a <u>an audited</u></del> statement of financial position.	
(3) The statements required under <b>subclause (2)</b> must be included—	
(a) separately for each group of water services activities provided by the territorial authority; and	
(b) aggregated for all water services provided by the territorial authority.	30
(3A) <u>However, this clause does not apply if a territorial authority prepares a water services annual report for the financial year ending on 30 June 2027 under clause 6(2) of Schedule 1 of the 2024 Act.</u>	
(4) <del>In this clause, <b>group of water services activities</b> has the meaning given in section 4 of the Local Government (Water Services) Act 2024.</del>	35

**60 Information to be included in long-term plan**

~~(1) In this clause,—~~

~~**2024 Act** means the Local Government (Water Services) Act **2024**~~

~~**water service provider** has the meaning given in **section 4** of the **2024 Act**~~

~~**water services strategy** has the meaning given in **section 180** of the **2024 Act**.~~

~~(2) The amendments made by the **2024 Act** to clause 2 of Schedule 10 of this Act do not apply to a territorial authority that is a water service provider until the territorial authority adopts its first water services strategy under the **2024 Act**.~~

**61 Planning and reporting documents of council-controlled organisations**

**(1) This clause applies to a council-controlled organisation (CCO) that—**

**(a) is—**

**(i) a CCO to which **clause 8 of Schedule 1** of the **2024 Act** applies; or**

**(ii) an Auckland water organisation under the Local Government (Auckland Council) Act 2009; and**

**(b) becomes a water organisation under the **2024 Act** when that Act comes into force.**

**(2) Despite **section 71B(2)**,—**

**(a) the most recent statement of intent prepared under section 64 of this Act in relation to the CCO continues in force until the first water services strategy adopted by the water organisation comes into force under **section 190** of the **2024 Act**;**

**(b) a statement of expectations prepared under section 64B of this Act in relation to the CCO continues in force until the first statement of expectations is provided to the water organisation under **section 184** of the **2024 Act**;**

**(c) the requirements for a half-yearly report under section 66 of this Act continue to apply until the water organisation adopts its first half-yearly report under **section 208** of the **2024 Act**;**

**(d) the requirements for an annual report under section 67 of this Act continue to apply until the water organisation adopts its first water services annual report under **section 203** of the **2024 Act**.**

**Schedule 8**

**New Part ~~2~~ inserted into Schedule 1 of Local Government (Water Services Preliminary Arrangements) Act 2024**

**s 257**

**Part ~~2~~**

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**Provision relating to Local Government (Water Services) Act 2024**

**1 Transitional provision relating to expenses of Crown monitor**

The amendment made to section 89(1)(a) by **section 256** of the Local Government (Water Services) Act **2024** applies to all expenses described in that section that the Crown monitor incurs from 3 September 2024.

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**Schedule 9**  
**New Part 8 inserted into Schedule 12 of Resource Management Act 1991**

s 286

<b>Part 8</b>	5
<b>Provisions relating to Local Government (Water Services) Act 2024</b>	
<b>48 Interpretation</b>	
<del>In this Part,—</del>	
<del>2024 Act means the Local Government (Water Services) Act 2024</del>	
<del>commencement date means that date on which the 2024 Act comes into force</del>	10
<del>extant wastewater consent has the meaning given in section 139B.</del>	
<b>49 Applicant may operate under section 124</b>	
(1) A holder of a consent that is operating under section 124 may—	
(a) withdraw their application for a new consent; and	
(b) prepare a new application that complies with <del>— a wastewater or stormwater environmental performance standard.</del>	15
(i) <u>a wastewater environmental performance standard; or</u>	
(ii) <u>a stormwater environmental performance standard; or</u>	
(iii) <u>an infrastructure design solution.</u>	
(2) Despite the holder of the consent withdrawing their application under <del>sub-clause (1)(a)-(2)(a),— they may continue to operate under section 124 for a period of up to 6 months starting on the date of the withdrawal.</del>	20
(a) <u>they may continue to operate under section 124 for a period of up to 6 months starting on the date of the withdrawal; but</u>	
(b) <u>they must submit the new application within 6 months after the date of the withdrawal.</u>	25
<b>50 Wastewater or stormwater environmental performance standard does not apply if applicant proceeds with unamended application</b>	
A wastewater or stormwater environmental performance standard does not apply to an application for a resource consent to renew an authorisation for <del>existing</del> wastewater or stormwater infrastructure if, <u>before the date on which the wastewater or stormwater environmental performance standard comes into force,—</u>	30
(a) the consent authority has decided under section 95 whether to give public or limited notification of the application; and	35

- (b) the applicant has determined to proceed with the application without amending it to comply with the wastewater or stormwater environmental performance standard.

**51 ~~Applications to renew or replace extant wastewater consent~~**

- (1) ~~This clause applies to an application to renew or replace an extant wastewater consent if—~~ 5
- (a) ~~the application is made before the commencement date; and~~
- (b) ~~the consent authority accepted the application for processing before the commencement date.~~
- (2) ~~A wastewater environmental performance standard does not apply to an application if, on the date on which the wastewater environmental performance standard comes into force,—~~ 10
- (a) ~~the consent authority has decided,—~~
- (i) ~~under section 95, to give public or limited notification of the application; or~~ 15
- (ii) ~~to process the application on a non-notified basis; and~~
- (b) ~~the applicant has decided to proceed with the application without amending it to comply with the wastewater environmental performance standard.~~

**Schedule 10**  
**Consequential amendments relating to Water Services Authority—**  
**Taumata Arowai**

s 297

**Part 1** 5  
**Amendments to Taumata Arowai—the Water Services Regulator Act**  
**2020**

**Taumata Arowai—the Water Services Regulator Act 2020 (2020 No 52)**

In section 3, replace “Taumata Arowai—the Water Services Regulator” with “the Water Services Authority—Taumata Arowai”. 10

In section 4, definition of **board**, replace “Taumata Arowai—the Water Services Regulator” with “the Water Services Authority—Taumata Arowai”.

In section 5(f), replace “of Taumata Arowai” with “of the Water Services Authority”.

In section 5(f)(i), replace “that Taumata Arowai” with “that the Water Services Authority”. 15

In section 5(g), replace “Taumata Arowai” with “the Water Services Authority”.

In the Part 2 heading, replace “**Taumata Arowai—the Water Services Regulator**” with “**the Water Services Authority—Taumata Arowai**”.

In Part 2, in the subpart 1 heading, replace “Taumata Arowai” with “Water Services Authority”. 20

Replace section 8 with:

**8 Water Services Authority—Taumata Arowai established**

This section establishes the Water Services Authority—Taumata Arowai.

In the heading to section 9, replace “**Taumata Arowai**” with “**Water Services Authority**”. 25

In section 9(1), replace “Taumata Arowai is” with “The Water Services Authority is”.

In section 9(2), replace “Taumata Arowai” with “the Water Services Authority”.

In the heading to section 10, replace “**Taumata Arowai**” with “**Water Services Authority**”.

In section 10, replace “Taumata Arowai’s” with “The Water Services Authority’s”. 30

In the heading to section 11, replace “**Taumata Arowai**” with “**Water Services Authority**”.

In section 11(1), replace “Taumata Arowai’s” with “The Water Services Authority’s”.

In section 11(1)(k), replace “Taumata Arowai” with “the Water Services Authority”.

In section 11(2)(a), replace “Taumata Arowai” with “the Water Services Authority”. 35

**Taumata Arowai—the Water Services Regulator Act 2020 (2020 No 52)**—*continued*

In Part 2, in the subpart 2 heading, replace “Taumata Arowai” with “Water Services Authority”.

In section 17(1), replace “Taumata Arowai” with “the Water Services Authority” in each place.

In section 17(3)(c), replace “Taumata Arowai’s” with “the Water Services Authority’s”. 5

In section 17(3)(c), replace “to Taumata Arowai” with “to the Water Services Authority”.

Replace section 17(5) with:

(5) The Water Services Authority must publish the memorandum of understanding and the terms of reference on its internet site. 10

In Part 2, in the subpart 3 heading, replace “Taumata Arowai” with “Water Services Authority”.

In section 19(1), replace “Taumata Arowai” with “the Water Services Authority” in each place. 15

In the heading to section 20, replace “**Taumata Arowai**” with “**Water Services Authority**”.

In section 20(1), replace “Taumata Arowai may” with “The Water Services Authority may”.

In section 20(1), replace “to Taumata Arowai” with “to the Water Services Authority”. 20

In section 20(2) to (4), replace “Taumata Arowai” with “the Water Services Authority” in each place.

In section 20(6), replace “Taumata Arowai” with “The Water Services Authority”.

**Part 2** 25**Amendments to other Acts****Civil Defence Emergency Management Act 2002 (2002 No 33)**

In section 4, definition of **emergency services**, delete “Taumata Arowai,”.

In section 4, repeal the definition of **Taumata Arowai**.

**Crown Entities Act 2004 (2004 No 115)** 30

In Schedule 1, Part 1, repeal the item relating to Taumata Arowai—the Water Services Regulator.

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

**Crown Entities Act 2004 (2004 No 115)—continued**

Name	Exemption from acquisition of financial products, borrowing, guarantee, and derivative rules				Exemption from section 165 (net surplus payable to Crown)
	s 161	s 162	s 163	s 164	
Water Services Authority— Taumata Arowai					

**Gore District Council (Otama Rural Water Supply) Act 2019 (2019 No 1 (L))**

In section 4, repeal the definition of **Taumata Arowai**.

In section 4, insert in its appropriate alphabetical order:

**Water Services Authority** means the Water Services Authority—Taumata Arowai established by section 8 of the **Water Services Authority—Taumata Arowai Act 2020**

5

In section 8(3), replace “Taumata Arowai” with “the Water Services Authority”.

**Health Act 1956 (1956 No 65)**

In section 2(1), repeal the definition of **Taumata Arowai**.

In section 2(1), insert in its appropriate alphabetical order:

10

**Water Services Authority** means the Water Services Authority—Taumata Arowai established by section 8 of the **Water Services Authority—Taumata Arowai Act 2020**

In section 25(6A), replace “Taumata Arowai” with “the Water Services Authority”.

~~**Local Government Act 2002 (2002 No 84)**~~

15

~~In section 124, repeal the definition of **Taumata Arowai**.~~

~~In section 124, insert in its appropriate alphabetical order:~~

~~**Water Services Authority** means the Water Services Authority—Taumata Arowai established by section 8 of the **Water Services Authority—Taumata Arowai Act 2020**~~

20

~~In section 125(2)(c), replace “Taumata Arowai” with “the Water Services Authority”.~~

~~In section 126(1)(b), replace “Taumata Arowai” with “the Water Services Authority”.~~

~~In section 126(2), replace “Taumata Arowai” with “the Water Services Authority”.~~

~~In section 127(1)(a), replace “Taumata Arowai’s” with “the Water Services Authority’s”.~~

25

~~In section 127(1)(a), replace “Taumata Arowai” with “the Water Services Authority” in each place.~~

~~In section 127(1)(b), replace “Taumata Arowai” with “the Water Services Authority”.~~

~~In section 127(2)(a), replace “Taumata Arowai” with “the Water Services Authority” in each place.~~

30

**~~Local Government Act 2002 (2002 No 84)~~ *continued***

~~In section 127(2)(b)(ii), replace “Taumata Arowai” with “the Water Services Authority”.~~

~~In section 127(3)(a)(iii), replace “Taumata Arowai’s” with “the Water Services Authority’s”.~~

~~In section 127(3)(d), replace “Taumata Arowai” with “the Water Services Authority”.~~ 5

~~In section 131(2)(b), replace “Taumata Arowai” with “the Water Services Authority”.~~

~~In section 131(2)(c)(i), replace “Taumata Arowai” with “the Water Services Authority”.~~

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

In section 44A(2)(bb)(iv), replace “Taumata Arowai” with “the Water Services Authority”. 10

**Local Government (Water Services Preliminary Arrangements) Act 2024 (2024 No 31)**

In section 4(5), replace “Taumata Arowai” with “the Water Services Authority”.

In section 5, repeal the definition of **Taumata Arowai**. 15

In section 5, insert in its appropriate alphabetical order:

**Water Services Authority** means the Water Services Authority—Taumata Arowai established by section 8 of the **Water Services Authority—Taumata Arowai Act 2020**

Replace section 20(2)(c) with: 20

(c) the Water Services Authority:

Replace section 21(b)(ii) with:

(ii) the Water Services Authority.

In section 90(3)(a), replace “Taumata Arowai” with “the Water Services Authority”.

**Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 (2010 No 119)** 25

Replace section 18(10)(a) with:

(a) the **Water Services Authority—Taumata Arowai Act 2020**; and

**Ombudsmen Act 1975 (1975 No 9)**

In Schedule 1, Part 2, repeal the item relating to Taumata Arowai—the Water Services Regulator. 30

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

Water Services Authority—Taumata Arowai

**Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (2017 No 7)**

In Schedule 2, repeal clause 1(ua).

In Schedule 2, after clause 1(wa), insert:

(wb) **Water Services Authority—Taumata Arowai Act 2020:**

**Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (2010 No 24)** 5

Replace section 17(10)(a) with:

(a) **Water Services Authority—Taumata Arowai Act 2020;** and

**Water Services Act 2021 (2021 No 36)**

In section 5, definition of **approved form**, replace “Taumata Arowai” with “the Water Services Authority”. 10

In section 5, definition of **chief executive**, replace “Taumata Arowai” with “the Water Services Authority”.

In section 5, repeal the definition of **Taumata Arowai**.

In section 5, insert in its appropriate alphabetical order: 15

**Water Services Authority** means the Water Services Authority—Taumata Arowai established by **section 8** of the **Water Services Authority—Taumata Arowai Act 2020**

In section 21(2)(b) and (f), replace “Taumata Arowai” with “the Water Services Authority”. 20

In section 22(2)(b) and (f), replace “Taumata Arowai” with “the Water Services Authority”.

In section 24, replace “Taumata Arowai” with “the Water Services Authority”.

In section 25(4)(a)(i) and (5)(a), replace “Taumata Arowai” with “the Water Services Authority”. 25

In section 26(1)(a) and (2), replace “Taumata Arowai” with “the Water Services Authority”.

In section 30(2), replace “Taumata Arowai” with “the Water Services Authority”.

In section 31(2), replace “Taumata Arowai” with “the Water Services Authority”.

In the heading to section 32, replace “**Taumata Arowai**” with “**Water Services Authority**”. 30

In section 32(1) and (2), replace “Taumata Arowai” with “The Water Services Authority”.

In section 33(2)(b), replace “Taumata Arowai” with “the Water Services Authority”.

In section 33(4), replace “Taumata Arowai” with “The Water Services Authority”. 35

In section 33(5)(b), replace “Taumata Arowai” with “the Water Services Authority”.

**Water Services Act 2021 (2021 No 36)**—*continued*

- In section 34(3)(b), replace “Taumata Arowai” with “the Water Services Authority”.
- In the heading to section 35, replace “**Taumata Arowai**” with “**Water Services Authority**”.
- In section 35(1), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 35(2)(b) and (e), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 35(3), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 36(1), (3), and (3)(b), replace “Taumata Arowai” with “the Water Services Authority” in each place.
- In section 37(2), replace “Taumata Arowai may” with “The Water Services Authority may”.
- In section 37(2), replace “to Taumata Arowai” with “to the Water Services Authority”.
- In section 38(1)(c), replace “Taumata Arowai” with “the Water Services Authority”.
- In the heading to section 39, replace “**Taumata Arowai**” with “**Water Services Authority**”.
- In section 39(1), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 39(2), replace “Taumata Arowai must” with “The Water Services Authority must”.
- In section 39(2)(b), replace “that Taumata Arowai” with “that the Water Services Authority”.
- In section 39(2)(b), replace “Taumata Arowai’s” with “the Water Services Authority’s”.
- In section 39(3) and (4), replace “Taumata Arowai may” with “The Water Services Authority may”.
- In section 39(4), replace “of Taumata Arowai” with “of the Water Services Authority”.
- In the heading to section 40, replace “**Taumata Arowai**” with “**Water Services Authority**”.
- In section 40, replace “Taumata Arowai” with “The Water Services Authority”.
- In section 44(3), replace “Taumata Arowai” with “the Water Services Authority” in each place.
- In the heading above section 45(1), replace “*Taumata Arowai*” with “*Water Services Authority*”.
- In section 45(1), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 45(2), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 46(1), replace “Taumata Arowai” with “the Water Services Authority”.

**Water Services Act 2021 (2021 No 36)—continued**

- In section 46(3), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 48(1), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 49(1), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 50(3), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 52(1), replace “Taumata Arowai” with “The Water Services Authority”. 5
- In the heading to section 53, replace “**Taumata Arowai**” with “**Water Services Authority**”.
- In section 53(1), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 53(3), replace “Taumata Arowai” with “the Water Services Authority” in each place. 10
- In section 54(2)(h) and (3), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 54(5), replace “Taumata Arowai must” with “The Water Services Authority must”.
- In section 54(5), replace “unless Taumata Arowai” with “unless the Water Services Authority”. 15
- In section 55(1), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 55(2), replace “Taumata Arowai must” with “The Water Services Authority must”.
- In section 55(2)(b), replace “Taumata Arowai” with “the Water Services Authority”. 20
- In section 55(3) and (4), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 56(1), (2), and (3), replace “Taumata Arowai” with “the Water Services Authority” in each place.
- In section 57(6)(e), replace “Taumata Arowai” with “the Water Services Authority”. 25
- In section 58(6), replace “Taumata Arowai” with “the Water Services Authority”.
- In the heading to section 59, replace “**Taumata Arowai**” with “**Water Services Authority**”.
- In section 59(1), ~~(3)~~, and (5), replace “Taumata Arowai” with “The Water Services Authority”. 30
- In section 59(6) and (7), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 61(2) and (2)(b) and (c), replace “Taumata Arowai” with “the Water Services Authority”.
- In the heading to section 62, replace “**Taumata Arowai**” with “**Water Services Authority**”. 35

**Water Services Act 2021 (2021 No 36)—continued**

- In section 62(1) and (2)(a), (b), and (k), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 62(3), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 62(4), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 62(5), replace “Taumata Arowai” with “The Water Services Authority”. 5
- In section 63(1), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 63(2), replace “Taumata Arowai may” with “The Water Services Authority may”.
- In section 63(2), replace “that Taumata Arowai” with “that the Water Services Authority”. 10
- In section 64(1), replace “if Taumata Arowai” with “if the Water Services Authority”.
- In section 64(1), replace “Taumata Arowai’s” with “the Water Services Authority’s”.
- In section 64(2), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 64(4), replace “Taumata Arowai may” with “The Water Services Authority may”. 15
- In section 64(4), replace “Taumata Arowai for all or part of any compensation paid by Taumata Arowai” with “the Water Services Authority for all or part of any compensation paid by the Water Services Authority”.
- In section 64(5)(a), replace “Taumata Arowai’s” with “the Water Services Authority’s”. 20
- In section 64(5)(c), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 65(1), (2), (2)(b), and (4), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 66(1), (1)(a), (2), and (2)(a), replace “Taumata Arowai” with “the Water Services Authority”. 25
- In section 72(e), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 73(2), replace “Taumata Arowai” with “the Water Services Authority”.
- In the heading to section 74, replace “**Taumata Arowai**” with “**Water Services Authority**”.
- In section 74(1), replace “Taumata Arowai” with “The Water Services Authority”. 30
- In section 74(2)(b), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 75(1), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 75(1)(b) and (h), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 78, replace “Taumata Arowai” with “the Water Services Authority”. 35
- In section 80(3), replace “Taumata Arowai” with “the Water Services Authority”.

**Water Services Act 2021 (2021 No 36)**—*continued*

In the heading to section 81, replace “**Taumata Arowai**” with “**Water Services Authority**”.

In section 81(1) and (2)(a), replace “Taumata Arowai” with “the Water Services Authority”.

In section 81(3), replace “Taumata Arowai” with “The Water Services Authority”. 5

In section 82, replace “Taumata Arowai” with “The Water Services Authority”.

In section 86(1)(a) and (2), replace “Taumata Arowai” with “the Water Services Authority”.

In section 88(2)(d), replace “Taumata Arowai” with “the Water Services Authority”.

In section 89(1), (1)(b), (2)(a) and (b), and (3), replace “Taumata Arowai” with “the Water Services Authority”. 10

In the heading to section 90, replace “**Taumata Arowai**” with “**Water Services Authority**”.

In section 90(1), replace “Taumata Arowai” with “The Water Services Authority”.

In section 90(3), replace “Taumata Arowai’s decision” with “The Water Services Authority’s decision”. 15

In section 90(3)(c), replace “Taumata Arowai” with “the Water Services Authority”.

In section 90(4), replace “Taumata Arowai may” with “The Water Services Authority may”.

In section 90(4)(a) and (b), (5), and (6), replace “Taumata Arowai” with “the Water Services Authority” in each place. 20

In section 91, replace “Taumata Arowai” with “the Water Services Authority”.

In section 92(1), replace “Taumata Arowai” with “the Water Services Authority”.

In section 92(2), replace “Taumata Arowai may” with “The Water Services Authority may”. 25

In section 92(2)(a), replace “Taumata Arowai’s” with “the Water Services Authority’s”.

In section 92(3), replace “Taumata Arowai must” with “The Water Services Authority must”.

In section 92(3), replace “after Taumata Arowai” with “after the Water Services Authority”. 30

In section 92(4), replace “Taumata Arowai” with “the Water Services Authority” in each place.

In section 93(1)(b), replace “Taumata Arowai’s” with “the Water Services Authority’s”. 35

In section 94(3), replace “Taumata Arowai” with “the Water Services Authority”.

**Water Services Act 2021 (2021 No 36)—continued**

- In section 98(1), replace “Taumata Arowai may” with “The Water Services Authority may”.
- In section 98(1)(a) and (d), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 99(1), replace “Taumata Arowai” with “The Water Services Authority”. 5
- In section 99(3), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 100(1), replace “Taumata Arowai” with “The Water Services Authority”.
- In the heading to section 101, replace “**Taumata Arowai’s**” with “**Water Services Authority’s**”.
- In section 101(1), replace “Taumata Arowai” with “the Water Services Authority”. 10
- In section 105(3)(b), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 106(1)(b) and (3), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 111(6), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 112(7), replace “Taumata Arowai” with “the Water Services Authority”. 15
- In the heading to section 114, replace “**Taumata Arowai**” with “**Water Services Authority**”.
- In section 114(1), replace “Taumata Arowai may” with “The Water Services Authority may”.
- In section 114(1), replace “if Taumata Arowai” with “if the Water Services Authority”. 20
- In section 114(4)(b) and (c) and (5), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 119(1)(d), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 125(1)(b), replace “Taumata Arowai” with “the Water Services Authority”. 25
- In section 128, replace “Taumata Arowai may” with “The Water Services Authority may”.
- In section 128, replace “to Taumata Arowai” with “to the Water Services Authority”.
- In section 131(2), replace “Taumata Arowai must” with “The Water Services Authority must”. 30
- In section 131(2), replace “of Taumata Arowai” with “of the Water Services Authority”.
- In section 131(3), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 133(3) and (3)(b), replace “Taumata Arowai” with “the Water Services Authority”. 35
- In section 134(3), replace “Taumata Arowai must” with “The Water Services Authority must”.

**Water Services Act 2021 (2021 No 36)**—*continued*

In section 134(3), replace “of Taumata Arowai” with “of the Water Services Authority”.

In section 134(4), replace “Taumata Arowai” with “the Water Services Authority”.

In Part 3, in the subpart 6 heading, replace “Taumata Arowai” with “Water Services Authority”. 5

In section 136(1), replace “Taumata Arowai” with “the Water Services Authority”.

In section 136(5)(a), replace “Taumata Arowai’s” with “the Water Services Authority’s”.

In section 136(5)(b), replace “Taumata Arowai” with “the Water Services Authority”.

In section 136(6), replace “Taumata Arowai’s” with “the Water Services Authority’s”. 10

In section 136(6)(b), replace “Taumata Arowai” with “the Water Services Authority”.

In section 136(8), replace “Taumata Arowai” with “The Water Services Authority”.

In the heading to section 137, replace “**Taumata Arowai**” with “**Water Services Authority**”.

In section 137(1), replace “Taumata Arowai must” with “The Water Services Authority must”. 15

In section 137(1)(f), replace “Taumata Arowai’s” with “the Water Services Authority’s” in each place.

In section 137(2) and (3), replace “Taumata Arowai” with “The Water Services Authority”. 20

In section 139(2)(d), (3)(a), (b), and (c), and (4)(b), replace “Taumata Arowai” with “the Water Services Authority” in each place.

In section 141, replace “Taumata Arowai” with “The Water Services Authority”.

In section 142(1), replace “Taumata Arowai” with “The Water Services Authority”.

In section 143(1), replace “Taumata Arowai” with “The Water Services Authority”. 25

In section 143(3), replace “Taumata Arowai” with “the Water Services Authority”.

In section 144(~~1~~), (~~2~~), and (3), replace “Taumata Arowai” with “The Water Services Authority”.

In section 144(4), replace “Taumata Arowai must” with “The Water Services Authority must”. 30

In section 144(4), replace “of Taumata Arowai” with “of the Water Services Authority”.

In section 145(1), replace “Taumata Arowai” with “The Water Services Authority”.

In section 145(4), replace “Taumata Arowai” with “the Water Services Authority”.

In section 146(1), replace “Taumata Arowai” with “The Water Services Authority”. 35

In section 146(2)(b), replace “Taumata Arowai” with “the Water Services Authority”.

**Water Services Act 2021 (2021 No 36)**—*continued*

- In section 147(1) and (2), replace “Taumata Arowai” with “The Water Services Authority”.
- In section 148(2), replace “Taumata Arowai must” with “The Water Services Authority must”.
- In section 148(2)(a), replace “Taumata Arowai’s” with “the Water Services Authority’s”.
- In section 160(1)(b), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 165(1), item relating to section 176, replace “Taumata Arowai” with “Water Services Authority”.
- In the heading to section 176, replace “**Taumata Arowai**” with “**Water Services Authority**”.
- In section 176(1)(a), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 180(1)(a), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 185(1)(a) and (b), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 187(1)(b) and (c), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 188(1)(a)(iii), replace “Taumata Arowai” with “the Water Services Authority”.
- In the heading to section 189, replace “**Taumata Arowai**” with “**Water Services Authority**”.
- In section 189(1), replace “Taumata Arowai” with “the Water Services Authority”.
- In the heading to section 190, replace “**Taumata Arowai**” with “**Water Services Authority**”.
- In section 190(1), replace “Taumata Arowai” with “the Water Services Authority”.
- In the heading to section 191, replace “**Taumata Arowai**” with “**Water Services Authority**”.
- In section 191(1)(a), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 196(6), replace “Taumata Arowai must” with “The Water Services Authority must”.
- In section 196(6), replace “of Taumata Arowai” with “of the Water Services Authority”.
- In section 199(2)(c), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 200(1)(c) and (e), replace “Taumata Arowai” with “the Water Services Authority”.
- In section 201(1) and (2)(a) and (b), replace “Taumata Arowai” with “the Water Services Authority”.

**Water Services Act 2021 (2021 No 36)—continued**

In section 201(5), replace “Taumata Arowai” with “The Water Services Authority”.

In section 202, replace “Taumata Arowai may recover any fee or levy payable to Taumata Arowai” with “The Water Services Authority may recover any fee or levy payable to the Water Services Authority”.

In section 203(1), replace “Taumata Arowai” with “the Water Services Authority”. 5

In section 204(1)(a) and (b) and (2), replace “Taumata Arowai” with “the Water Services Authority” in each place.

In section 204(5), definition of **regulatory agency**, paragraph (m), replace “Taumata Arowai” with “the Water Services Authority”.

In section 205(1), replace “Taumata Arowai” with “The Water Services Authority”. 10

In section 205(2)(a) and (b), replace “Taumata Arowai” with “the Water Services Authority”.

**Part 3****Amendments to secondary legislation****Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007 (SR 2007/396) 15**

In regulation 3(1), definition of **registered drinking-water supply**, replace “Taumata Arowai” with “the Water Services Authority—Taumata Arowai”.

**Water Services (Fees and Charges) Regulations 2021 (SL 2021/371)**

In regulation 5(1), replace “Taumata Arowai” with “the Water Services Authority”. 20

In regulation 8(1)(b), replace “Taumata Arowai” with “the Water Services Authority”.

In regulation 8(2)(a)(i), replace “Taumata Arowai” with “the Water Services Authority”.

In regulation 9(1)(b), replace “Taumata Arowai’s” with “the Water Services Authority’s”. 25

In regulation 9(2), replace “Taumata Arowai” with “the Water Services Authority”.

In regulation 11(2)(b), replace “Taumata Arowai’s” with “the Water Services Authority’s”.

**Schedule 11**  
**New Part 3 inserted into Schedule 1 of Water Services Act 2021**

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<b>Part 3</b>		
<b>Provisions relating to Local Government (Water Services) Act 2024</b>		5
<b>19</b>	<b>Interpretation</b>	
	In this Part, unless the context otherwise requires, <b>commencement date</b> means the day on which this Part comes into force.	
	<i><u>National Engineering Design Standards (NEDS)</u></i>	
<b>19A</b>	<b>Infrastructure that is compliant before NEDS in force</b>	10
	<u>Despite <b>subpart 1AA</b> of Part 3 and <b>section 200(1)(ca)</b>, the National Engineering Design Standards contained in regulations made under that section do not apply to the design, construction, and operational performance of water services infrastructure and services if the work on design, construction, and operational performance is completed in accordance with all requirements of, and approvals under, this Act before those regulations come into force.</u>	15
	<i><u>Consultation under section 138 or 139A</u></i>	
<b>20</b>	<b>Consultation undertaken before commencement date</b>	
(1)	Any consultation undertaken under section 138(1) or 139A(1) before the commencement date may be considered to have been undertaken for the purposes of <u>making regulations made</u> under those sections after the commencement date.	20
(2)	To avoid doubt, <b>subclause (1)</b> applies despite—	
	(a) <u>the consultation being undertaken about proposed environmental performance standards under section 138(1) or 139A(1) as those sections appeared immediately before the commencement date; and</u>	25
	(b) <u>the changes made, on and from the commencement date, by the Local Government (Water Services) Act 2024 to—</u>	
	(i) <u>the process for making an environmental performance standard under those sections; and</u>	
	(ii) <u>the application of an environmental performance standard made under those sections.</u>	30

## Schedule 12

### Consequential amendments

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#### Local Government Act 2002 (2002 No 84)

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

**consumer trust** has the meaning set out in **section 4** of the Local Government (Water Services) Act **2024**

**water organisation** has the meaning set out in **section 4** of the Local Government (Water Services) Act **2024**

**water service provider** has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**

In section 39, insert as subsection (2):

(2) In subsection (1)(d), **good employer** has the same meaning as in clause 36 of Schedule 7.

After section 71A, insert:

#### **71B Application of Part to water organisations**

(1) This section applies to a council-controlled organisation that is a water organisation (~~see section 6~~ **section 6(1AAB)**) and to its shareholders.

(2) The board and shareholders of the water organisation—

(a) must comply with **Part 4** of the Local Government (Water Services) Act **2024**; but

(b) must not comply with sections 64 to 69 and Schedule 8 of this Act.

After section 76AA(6), insert:

#### *Water services*

(7) Consultation under subsection (5) is not required to amend a policy to the extent that the amendment is made when a territorial authority—

(a) has established a water organisation under the Local Government (Water Services) Act **2024**; and

(b) is working with that organisation in relation to the organisation's significance and engagement policy under **section 30E(4)** of that Act.

(8) This section applies subject to **sections 30B and 30E(4)** of that Act.

After section 79(4), insert:

#### *Water services*

(5) In subsection (1)(a), the reference to section 77 must be read as a reference to **section 26** of the Local Government (Water Services) Act **2024** if the identification and assessment of options relates to a change proposal under **section 25** of that Act.

**Local Government Act 2002 (2002 No 84)—continued**

After section 93(10), insert:

- (11) However, this section does not apply to information relating to water services if the information is included in a water services strategy adopted under **section 190** of the Local Government (Water Services) Act **2024**.

After section 95(7), insert:

- (8) However, this section does not apply to information relating to water services for a local authority that is a water service provider under the Local Government (Water Services) Act **2024**.

After section 97(3)(c), insert:

- (d) in relation to strategic water services assets or levels of service to which **section 30A** of the Local Government (Water Services) Act **2024** applies.

~~After section 97(3), insert:~~

- ~~(4) If a local authority proposes making a decision relating to a level of service or strategic asset that relates to water service, the local authority—~~
- ~~(a) may include information about the decision in a water services strategy prepared under the Local Government (Water Services) Act **2024**; and~~
- ~~(b) need not include the information in a long term plan or a consultation document under section 93C or 93D.~~

After section 98(6), insert:

- (7) However, if a local authority is a water service provider under the Local Government (Water Services) Act **2024**, this section is subject to **section 205** of that Act.

After section 101B(5), insert:

- (5A) Despite subsection (6)(b), an infrastructure strategy—
- (a) may include information on water services infrastructure under the Local Government (Water Services) Act **2024** if that information is part of, or desirable to support, an integrated approach to infrastructure planning in the local authority's district; but
- (b) must not include the detailed information on water services infrastructure that is required to be included in a water services strategy adopted by a water service provider under **section 190** of the Local Government (Water Services) Act **2024**.
- (5B) In subsections **(5A)** and (6), **water service provider** and **water services infrastructure** have the same meanings as in **section 4** of the Local Government (Water Services) Act **2024**.

Repeal section 101B(6)(a)(i) to (iii).

**Local Government Act 2002 (2002 No 84)—continued**

In section 101B(6)(b), after “the strategy”, insert “, other than water services infrastructure assets that relates relate to providing water services under the Local Government (Water Services) Act **2024**”.

Replace section 123(a) with:

- (a) the obligation to assess certain sanitary services and the purpose of that assessment: 5

Repeal section 123(b).

Replace section 126(3)(a) with:

- (a) ~~the territorial authority’s water services strategy under **section 190** of the Local Government (Water Services) Act **2024**; and~~ 10
- (aa) ~~if the territorial authority is a shareholder in a water organisation, a statement of expectations for that organisation (see **section 184** of the Local Government (Water Services) Act **2024**); and~~

Repeal ~~section~~ sections 124 to 127.

After section 128(3), insert: 15

- (4) ~~An assessment of wastewater services may be undertaken on behalf of the territorial authority (whether in whole or in part) by another appropriate organisation (including, for example, by a water organisation).~~

Replace section 128 with:

**128 Requirement to assess certain sanitary services** 20

(1) A territorial authority must assess the provision of the following services within its district:

- (a) public toilets:
- (b) crematoria:
- (c) cemeteries. 25

(2) The purpose of an assessment is to assess, from a public health perspective, the adequacy of the services referred to in **subsection (1)** available to communities throughout the territorial authority’s district, taking into consideration—

- (a) the health risks to communities arising from any absence of, or deficiency in, the services; and 30
- (b) the quality of the services currently available to communities within the district; and
- (c) the current and estimated future demands for any of those services.

(3) One type of service may be assessed in conjunction with another.

(4) An assessment may be undertaken on behalf of the territorial authority (whether in whole or in part) by another appropriate organisation. 35

**Local Government Act 2002 (2002 No 84)**—*continued*

~~Repeal sections 130, 136, and 137, and the cross-headings above sections 136 and 137.~~

Repeal subpart 2 of Part 7.

Repeal section 143(d).

In section 143, insert as subsection (2):

- (2) However, if a territorial authority is authorised to make a bylaw under the Local Government (Water Services) Act **2024**, it must make the bylaw under that Act, and not under this Act.

Repeal section 146(1)(a)(i) and (iii) and (b)(ii) and (iii) ~~(b)(i) to (iii)~~.

Repeal section 146(2) to(4).

Repeal section 148.

Repeal section 153(1)(a), (c), and (d).

After section 171(5), insert:

- (6) However, this section and sections 172 and 173 do not apply to a local authority that is a water service provider exercising powers under **subpart 4 of Part 3** of the Local Government (Water Services) Act **2024**.

Repeal section 181(1)(a) and (c).

After section 181(6), insert:

- (7) This section does not apply to a local authority that is a water service provider exercising powers under **subpart 4 of Part 3** of the Local Government (Water Services) Act **2024**.

In section 182(1)(a), delete “waterworks or”.

Repeal sections 192 and 193.

Repeal sections 195 and 196 and the cross-heading above section 195.

Repeal sections 224 to 227 and the cross-headings above sections 224 and 227.

In Schedule 10, repeal clause 2(2)(a) to (c).

In Schedule 10, clause 2(3), after “group of activities”, insert “, other than activities related to providing water services under the Local Government (Water Services) Act **2024**”.

In Schedule 10, replace clause 6(a) with:

- (a) assessment of certain sanitary services under **section 128**:

In Schedule 10, after clause 15(4)(d), insert:

- (da) specify whether the targeted rate is set to collect revenue that—  
 (i) relates to 1 or more groups of water services activities; and

**Local Government Act 2002 (2002 No 84)—continued**

- (ii) is being collected as an agent of a water organisation, as provided in a transfer agreement under **clause 6 of Schedule 2** of the Local Government (Water Services) Act **2024**; and

In Schedule 10, after clause 15(6), insert:

- (7) In **subclause (4)(da), group of water services activities, water organisation, and transfer agreement** have the meanings given in **section 4** of the Local Government (Water Services) Act **2024**.

**Local Government Borrowing Act 2011 (2011 No 77)**

In section 15(2), replace “10 years after the commencement of this Act” with “30 June 2037”.

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

In the heading to section 44D, replace “**and regional council**” with “**, regional council, and water organisation**”.

In section 44D, replace “or regional council” with “**, regional council, or water organisation**”.

After section 44D(b), insert:

- (c) in the case of a water organisation, information provided to a territorial authority under **section 75A** of the Local Government (Water Services) Act **2024**.

In section 44D, insert as subsection (2):

- (2) In this section, **water organisation** has the meaning given in **section 4** of the Local Government (Water Services) Act **2024**.

After section 45(1A), insert:

- (1B) Despite paragraph (b) of the definition of meeting in subsection (1), **meeting**, in relation to a water organisation within the meaning of the Local Government (Water Services) Act **2024**, means a meeting of the board of the organisation and does not include a meeting of a committee or subcommittee of the board.

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

Water organisations within the meaning of the Local Government (Water Services) Act **2024**

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

In section 4(1), definition of **Auckland water organisation**, paragraph (b)(i), delete “(except in section 61)”.

In section 60A(1)(a), replace “charge or charging regime revenue” with “**water services charge or the revenue from water services charges**”.

In section 60A(2), replace “a charge” with “**a water services charge**”.

**Local Government (Auckland Council) Act 2009 (2009 No 32)—continued**

In section 60A(2)(b), replace “the charge” with “the water services charge”.

Replace section 60A(4) with:

(4) A water services charge under this section must be assessed as an amount that is a uniform percentage (which percentage may exceed 100%) of the total water services charge payable in relation to a property during the 12-month period ending on the last day of the calendar month immediately before the month in which the charge is assessed under this section.

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In section 60A(5), replace “A charge” with “A water services charge”.

In section 60A(5), delete “section 40D(5) and (6) of”.

After section 60A(5), insert:

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(5A) A water services charge under this section must not be limited by a Watercare charter made under section 77 of the Local Government (Water Services Preliminary Arrangements) Act 2024.

(5B) A water services charge imposed under this section is—

(a) a debt due to the Auckland water organisation; and

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

Replace section 60A(6) with:

(6) In this section,—

**Crown monitor** means a Crown monitor appointed under section 72 of the Local Government (Water Services Preliminary Arrangements) Act 2024

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**incidental arrangement** has the same meaning as in section 112 of the Local Government Act 2002

**loan** has the same meaning as in section 112 of the Local Government Act 2002

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**property** means a street address that, at any point in a 12-month period ending on the last day of the calendar month immediately before the month during which a charge is assessed under this section, is (or has been) connected to 1 or more of an Auckland water organisation’s—

(a) water supply services:

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(b) wastewater services:

(c) stormwater services (if responsibility for stormwater services has been transferred to an Auckland water organisation under a transfer agreement under **section 11** of the Local Government (Water Services) Act 2024)

**stormwater services** has the same meaning as in **section 4** of the Local Government (Water Services) Act 2024

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**Local Government (Auckland Council) Act 2009 (2009 No 32)—continued**

**water services charges** means any charges set by an Auckland water organisation under **section 60** of the Local Government (Water Services) Act **2024** for providing—

- (a) water supply services:
- (b) wastewater services:
- (c) stormwater services (if responsibility for stormwater services has been transferred to an Auckland water organisation under a transfer agreement under **section 11** of the Local Government (Water Services) Act **2024**).

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Repeal sections 61 and 62 and the cross-heading above section 61.

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Repeal sections ~~64~~ 63 to 71 and the cross-heading above section 63.

Repeal sections 74 to 77 and the cross-heading above section 74.

Replace section 78 with:

**78 Council must consult Auckland water organisations when assessing water services**

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(1) **Subsection (2) applies to the Council when carrying out its duty under **sections 58B to 58D** of the Local Government (Water Services) Act **2024** to assess the following within Auckland:**

- (a) access to drinking water:
- (b) the provision of wastewater services and stormwater services.

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(2) **The Council must consult each Auckland water organisation in making its assessment**

Replace section 90(2)(c) and (d) with:

(c) **specify any reporting requirements that each substantive council-controlled organisation must undertake in addition to those required under the following:**

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(i) Part 5 of the Local Government Act 2002:

(ii) in the case of Watercare Services Limited, **Part 4** of the Local Government (Water Services) Act **2024**:

(iii) this Act:

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(d) **specify any planning requirements that each substantive council-controlled organisation must undertake in addition to those required under the following:**

(i) Part 5 of the Local Government Act 2002:

(ii) in the case of Watercare Services Limited, **Part 4** of the Local Government (Water Services) Act **2024**:

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(iii) this Act:

**Local Government (Auckland Council) Act 2009 (2009 No 32)—continued**

In section 91(1), after “substantive council-controlled organisation”, insert “(except Watercare Services Limited)”.

In section 96(1), after “Auckland Council”, insert “(except Watercare Services Limited)”.

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

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After section 19, insert:

**19AA Targeted rate for wastewater**

- (1) A local authority may set a targeted rate in accordance with its funding impact statement for the wastewater services provided by the local authority.
- (2) A targeted rate under **subsection (1)** may be calculated as a fixed charge per unit of wastewater.
- (3) In this section, **wastewater services** has the meaning given in **section 4** of the Local Government (Water Services) Act **2024**.

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**Local Government (Water Services Preliminary Arrangements) Act 2024 (2024 No 31)**

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Replace section 14(1)(d)(ii) with:

- (ii) a joint water service provider arrangement under **section 24** of the Local Government (Water Services) Act **2024**; or

Repeal subpart 3 of Part 2 (which relates to foundational information disclosure requirements).

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In section 58(a)(i)(B), replace “a joint local government arrangement under section 137 of the LGA2002” with “a joint water service provider arrangement under **section 24** of the Local Government (Water Services) Act **2024**”.

Replace section 61(1)(a)(ii) with:

- (ii) a joint water service provider arrangement under **section 24** of the Local Government (Water Services) Act **2024**; or

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Replace section 62(1)(a)(ii) with:

- (ii) a joint water service provider arrangement under **section 24** of the Local Government (Water Services) Act **2024**; or

In section 63(1)(b), replace “joint local government arrangement under section 137 of the LGA2002” with “joint water service provider arrangement under **section 24** of the Local Government (Water Services) Act **2024**”.

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Replace section 64(1)(a)(ii) with:

- (ii) a joint water service provider arrangement under **section 24** of the Local Government (Water Services) Act **2024**; or

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**Local Government (Water Services Preliminary Arrangements) Act 2024 (2024 No 31)**—*continued*

In section 65, replace “joint local government arrangement under section 137 of the LGA2002” with “joint water service provider arrangement under **section 24** of the Local Government (Water Services) Act **2024**”.

In section 66(1), replace “joint local government arrangement under section 137 of the LGA2002” with “joint water service provider arrangement under **section 24** of the Local Government (Water Services) Act **2024**”.

In section 67(1), replace “joint local government arrangement under section 137 of the LGA2002” with “joint water service provider arrangement under **section 24** of the Local Government (Water Services) Act **2024**”.

In section 68(1)(b), replace “joint local government arrangement under section 137 of the LGA2002” with “joint water service provider arrangement under **section 24** of the Local Government (Water Services) Act **2024**”.

**Ngāti Rangī Claims Settlement Act 2019 (2019 No 40)**

In Schedule 5, after clause 1(d), insert:

(da) Local Government (Water Services) Act 2024:

In Schedule 5, after clause 1(k), insert:

(l) Water Services Act 2021:

(m) Water Services Authority—Taumata Arowai Act 2020.

**Ombudsmen Act 1975 (1975 No 9)**

In Schedule 1, Part 3, insert in its appropriate alphabetical order:

Water organisations within the meaning of the Local Government (Water Services) Act **2024**

**Public Audit Act 2001 (2001 No 10)**

In Schedule 1, insert in their appropriate alphabetical order:

Consumer trusts as defined in **section 4** of the Local Government (Water Services) Act **2024**.

Water organisations as defined in **section 4** of the Local Government (Water Services) Act **2024**.

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

In section 2, definition of **local authority**, paragraph (a), after “harbour board”, insert “, water service provider”.

In section 2, insert in its appropriate alphabetical order:

**water service provider** has the same meaning as in **section 4** of the Local Government (Water Services) Act **2024**

**Rates Rebate Act 1973 (1973 No 5)**

In section 2(1), replace the definition of **rates** with:

- rates**, in relation to a residential property, means—
- (a) a general rate or targeted rate or uniform annual general charge that is assessed on the property, but does not include—
    - (i) the amount of a discount that is allowed under section 55(3) or 56(4) of the Local Government (Rating) Act 2002, whether or not the discount has been allowed to the ratepayer in question; or
    - (ii) the amount of a penalty added under section 57 of the Local Government (Rating) Act 2002; or
    - (iii) rates for which judgment has been entered in a court; and
  - (b) ~~water services charges set and collected under **section 60, 61, or 62**~~ **section 60 or 61** of the Local Government (Water Services) Act **2024** ~~2024~~
  - (c) charges set and collected by Watercare Services Limited for providing water supply services and wastewater services under the Local Government (Water Services) Act 2024.

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

In section 166, definition of **requiring authority**, after paragraph (b), insert:

- (ba) a water service provider as defined in **section 4** of the Local Government (Water Services) Act **2024**; or

In Schedule 1, after clause 3(1)(c), insert:

- (ca) water organisations under the Local Government (Water Services) Act **2024** who may be so affected; and

**Taumata Arowai—the Water Services Regulator Act 2020 (2020 No 52)** 25

In section 4, definition of **stormwater network**, paragraph (a)(ii)(A), replace “council-controlled organisation” with “water organisation” in each place.

In section 4, definition of **stormwater network operator**, paragraph (a)(i), replace “council-controlled organisation” with “water organisation” in each place.

In section 4, definition of **wastewater network**, paragraph (b)(i), replace “council-controlled organisation” with “water organisation” in each place. 30

In section 4, definition of **wastewater network operator**, paragraph (a)(i), replace “council-controlled organisation” with “water organisation” in each place.

In section 4, insert in its appropriate alphabetical order:

- water organisation** has the meaning given by **section 4** of the Local Government (Water Services) Act **2024** 35

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

In section 4, definition of **utility operator**, after paragraph (d)(ii), insert:

- (ia) a water service provider as defined in **section 4** of the Local Government (Water Services) Act **2024**; or

**Legislative history**

10 December 2024  
17 December 2024

Introduction (Bill 108–1)  
First reading and referral to Finance and Expenditure Committee