

**Reprint
as at 4 September 2013**



**Resource Management (Simplifying and Streamlining)
Amendment Act 2009**

Public Act 2009 No 31
Date of assent 22 September 2009
Commencement see section 2

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Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this reprint.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Resource Management (Simplifying and Streamlining) Amendment Act 2009.

2 Commencement

This Act comes into force on 1 October 2009.

3 Principal Act amended

This Act amends the Resource Management Act 1991.

Part 1

Amendments to principal Act

4 Interpretation

- (1) This section amends section 2(1).
- (2) The definitions of **amendment**, **board of inquiry**, and **declaration** are repealed.
- (3) The following definitions are inserted in their appropriate alphabetical order:

Crown organisation has the same meaning as in section 4 of the Crown Organisations (Criminal Liability) Act 2002

employee includes,—

- (a) in relation to a Crown organisation, the chief executive or principal officer (however described) of the organisation; and
- (b) in relation to the New Zealand Defence Force, a member of the Armed Forces (as defined in section 2(1) of the Defence Act 1990)

Environmental Protection Authority or **EPA** means the Environmental Protection Authority established under section 42B

proposed policy statement has the meaning given in section 43AA

use,—

- (a) in sections 9, 10, 10A, 10B, 81(2), 176(1)(b)(i), and 193(a), means—
 - (i) alter, demolish, erect, extend, place, reconstruct, remove, or use a structure or part of a structure in, on, under, or over land;
 - (ii) drill, excavate, or tunnel land or disturb land in a similar way;
 - (iii) damage, destroy, or disturb the habitats of plants or animals in, on, or under land;
 - (iv) deposit a substance in, on, or under land;
 - (v) any other use of land; and
- (b) in sections 9, 10A, 81(2), 176(1)(b)(i), and 193(a), also means to enter onto or pass across the surface of water in a lake or river

- (4) The definition of **applicant** is repealed and the following definition substituted:

applicant,—

- (a) in sections 37A, 40, 41B, 41C, and 42A means—
 - (i) for the purposes of a review of consent conditions, the consent holder; or
 - (ii) for any matter described in section 39(1) except for section 39(1)(c), the person who initiates the matter:
- (b) in section 96, means the person who—
 - (i) initiates a matter described in section 39(1)(b) or (d); or
 - (ii) holds a resource consent referred to in section 39(1)(c); or
 - (iii) initiates a requirement for a designation:
- (c) in Part 6AA, has the meaning given in section 141

- (5) The definition of **certificate of compliance** is amended by omitting “local authority” and substituting “consent authority or the Environmental Protection Authority”.

- (6) The definition of **change** is repealed and the following definition substituted:

change has the meaning given in section 43AA

- (7) The definition of **consent authority** is amended by omitting “the Minister of Conservation,”.

- (8) The definition of **contaminated land** is repealed and the following definition substituted:

contaminated land means land that has a hazardous substance in or on it that—

- (a) has significant adverse effects on the environment; or
- (b) is reasonably likely to have significant adverse effects on the environment

- (9) The definition of **district plan** is repealed and the following definition substituted:
- district plan** has the meaning given in section 43AA
- (10) The definition of **district rule** is repealed and the following definition substituted:
- district rule** has the meaning given in section 43AAB
- (11) The definition of **land** is repealed and the following definition substituted:
- land**—
- (a) includes land covered by water and the air space above land; and
 - (b) in a national environmental standard dealing with a regional council function under section 30 or a regional rule, does not include the bed of a lake or river; and
 - (c) in a national environmental standard dealing with a territorial authority function under section 31 or a district rule, includes the surface of water in a lake or river
- (12) The definition of **operative** is repealed and the following definition substituted:
- operative** has the meaning given in section 43AA
- (13) The definition of **plan** is repealed and the following definition substituted:
- plan** has the meaning given in section 43AA
- (14) The definition of **policy statement** is repealed and the following definition substituted:
- policy statement** has the meaning given in section 43AA
- (15) The definition of **proposed plan** is repealed and the following definition substituted:
- proposed plan** has the meaning given in section 43AAC
- (16) The definition of **public notice** is repealed and the following definition substituted:
- public notice**—
- (a) means a notice published in a newspaper circulating in the entire area likely to be affected by the proposal to which the notice relates; and
 - (b) if a local authority also publishes a notice on an Internet site to which the public have free access, includes that notice
- (17) The definition of **regional coastal plan** is repealed and the following definition substituted:
- regional coastal plan** has the meaning given in section 43AA
- (18) The definition of **regional plan** is repealed and the following definition substituted:
- regional plan** has the meaning given in section 43AA

- (19) The definition of **regional policy statement** is repealed and the following definition substituted:
- regional policy statement** has the meaning given in section 43AA
- (20) The definition of **regional rule** is repealed and the following definition substituted:
- regional rule** has the meaning given in section 43AAB
- (21) The definition of **restricted coastal activity** is repealed and the following definition substituted:
- restricted coastal activity** means any discretionary activity or non-complying activity that, in accordance with section 68, is stated by a regional coastal plan to be a restricted coastal activity
- (22) The definition of **rule** is repealed and the following definition substituted:
- rule** has the meaning given in section 43AA
- (23) The definition of **submission** is repealed and the following definition substituted:
- submission** means a written or electronic submission
- (24) The definition of **survey plan** is repealed and the following definition substituted:
- survey plan** has the meaning set out in the following paragraphs, in which **cadastral survey dataset** has the same meaning as in section 4 of the Cadastral Survey Act 2002:
- (a) **survey plan** means—
- (i) a cadastral survey dataset of subdivision of land, or a building or part of a building, prepared in a form suitable for deposit under the Land Transfer Act 1952; and
- (ii) a cadastral survey dataset of a subdivision by or on behalf of a Minister of the Crown of land not subject to the Land Transfer Act 1952:
- (b) **survey plan** includes—
- (i) a unit plan; and
- (ii) a cadastral survey dataset to give effect to the grant of a cross lease or company lease
- (25) The definition of **variation** is repealed and the following definition substituted:
- variation** has the meaning given in section 43AA

5 New section 2AA inserted

The following section is inserted after section 2:

2AA Definitions relating to notification

- (1) The definitions in subsection (2) apply only in relation to—
- (a) an application for a resource consent for an activity; or
 - (b) any of the following matters:
 - (i) a review of a resource consent:
 - (ii) an application to change or cancel a condition of a resource consent:
 - (iii) a notice of requirement for a designation or heritage order:
 - (iv) a notice of requirement to alter a designation or heritage order:
 - (v) an application or proposal to vary or cancel an instrument creating an esplanade strip:
 - (vi) a matter of creating an esplanade strip by agreement.
- (2) In this Act, unless the context requires another meaning,—
- affected order holder** means the holder of a customary rights order who, under section 95F, is decided to be an affected order holder in relation to the application or matter
- affected person** means a person who, under section 95E, is decided to be an affected person in relation to the application or matter
- limited notification** means serving notice of the application or matter on any affected person or affected order holder within the time limit specified by section 95
- notification** means public notification or limited notification of the application or matter
- public notification** means doing the following within the time limit specified by section 95:
- (a) giving public notice of the application or matter in the prescribed form; and
 - (b) serving notice of the application or matter on every prescribed person.

6 Act to bind the Crown

- (1) Section 4(1) is repealed and the following subsection substituted:
- (1) This Act binds the Crown, except as provided in this section.
- (2) Section 4(3) is amended by omitting “Section 9(1)” and substituting “Section 9(3)”.
- (3) Section 4(5) is repealed and the following subsections are substituted:
- (5) An abatement notice or excessive noise direction may be served or issued against an instrument of the Crown, in accordance with this Act, only if—
- (a) it is a Crown organisation; and

- (b) the notice or direction is served or issued against the Crown organisation in its own name.
- (6) An enforcement order may be made against an instrument of the Crown, in accordance with this Act, only if—
 - (a) it is a Crown organisation; and
 - (b) a local authority applies for the order; and
 - (c) the order is made against the Crown organisation in its own name.
- (7) Subsections (5) and (6) apply despite section 17(1)(a) of the Crown Proceedings Act 1950.
- (8) An instrument of the Crown may be served with an infringement notice, in accordance with this Act, only if—
 - (a) it is liable to be proceeded against for the alleged offence under subsection (9); and
 - (b) the notice is served against the Crown organisation in its own name.
- (9) An instrument of the Crown may be prosecuted for an offence against this Act only if—
 - (a) it is a Crown organisation; and
 - (b) the offence is alleged to have been committed by the Crown organisation; and
 - (c) the proceedings are commenced—
 - (i) by a local authority or an enforcement officer; and
 - (ii) against the Crown organisation in its own name and the proceedings do not cite the Crown as a defendant; and
 - (iii) in accordance with the Crown Organisations (Criminal Liability) Act 2002.
- (10) However, subsections (8) and (9) are subject to section 8(4) of the Crown Organisations (Criminal Liability) Act 2002 (which provides that a court may not sentence a Crown organisation to pay a fine in respect of an offence against this Act).
- (11) If a Crown organisation is not a body corporate, it is to be treated as if it were a separate legal personality for the purposes of—
 - (a) serving or issuing an abatement notice or excessive noise direction against it; and
 - (b) making an enforcement order against it; and
 - (c) serving an infringement notice on it; and
 - (d) enforcing an abatement notice, excessive noise direction, enforcement order, or infringement notice in relation to it.

- (12) Except to the extent and in the manner provided for in subsections (5) to (11), the Crown may not—
- (a) be served or issued with an abatement notice or excessive noise direction; or
 - (b) have an enforcement order made against it; or
 - (c) be served with an infringement notice; or
 - (d) be prosecuted for an offence against this Act.

7 New section 9 substituted

Section 9 is repealed and the following section substituted:

9 Restrictions on use of land

- (1) No person may use land in a manner that contravenes a national environmental standard unless the use—
- (a) is expressly allowed by a resource consent; or
 - (b) is allowed by section 10; or
 - (c) is an activity allowed by section 10A; or
 - (d) is an activity allowed by section 20A.
- (2) No person may use land in a manner that contravenes a regional rule unless the use—
- (a) is expressly allowed by a resource consent; or
 - (b) is an activity allowed by section 20A.
- (3) No person may use land in a manner that contravenes a district rule unless the use—
- (a) is expressly allowed by a resource consent; or
 - (b) is allowed by section 10; or
 - (c) is an activity allowed by section 10A.
- (4) No person may contravene section 176, 178, 193, or 194 unless the person obtains the prior written consent of the requiring authority or the heritage protection authority.
- (5) This section applies to overflying by aircraft only to the extent to which noise emission controls for airports have been prescribed by a national environmental standard or set by a territorial authority.
- (6) This section does not apply to use of the coastal marine area.

8 Certain existing uses in relation to land protected

Section 10(6) is repealed.

9 Certain existing activities allowed

- (1) Section 10A is amended by omitting “being notified” and substituting “taking legal effect in accordance with section 86B or 149N(8)”.
- (2) Section 10A is amended by omitting “is notified” and substituting “takes legal effect in accordance with section 86B or 149N(8)”.
- (3) Section 10A is amended by inserting “the rule in” before “the plan becomes operative”.
- (4) Section 10A is amended by inserting “the rule in” before “the proposed plan”.
- (5) Section 10A(1)(a) and (b) are amended by omitting “was notified” in both places where the words appear and substituting “took legal effect in accordance with section 86B or 149N(8)” in both places.

10 Certain existing building works allowed

- (1) Section 10B is amended by omitting “was notified” in every place where the words appear and substituting “took legal effect in accordance with section 86B or 149N(8)” in each place.
- (2) Section 10B(3)(a) is amended by omitting “has been notified” and substituting “has taken legal effect in accordance with section 86B or 149N(8)”.
- (3) Section 10B(4) is repealed and the following subsection substituted:
- (4) Section 10(4) and (5) apply to this section.

11 Restrictions on subdivision of land

Section 11(1)(a) is repealed and the following paragraph substituted:

- (a) both, first, expressly allowed by a national environmental standard, a rule in a district plan as well as a rule in a proposed district plan for the same district (if there is one), or a resource consent and, second, shown on one of the following:
 - (i) a survey plan, as defined in paragraph (a)(i) of the definition of **survey plan** in section 2(1), deposited under Part 10 by the Registrar-General of Land; or
 - (ii) a survey plan, as defined in paragraph (a)(ii) of the definition of **survey plan** in section 2(1), approved as described in section 228 by the Chief Surveyor; or
 - (iii) a survey plan, as defined in paragraph (b) of the definition of **survey plan** in section 2(1), deposited under Part 10 by the Registrar-General of Land; or

12 Restrictions on use of coastal marine area

- (1) Section 12(1) is amended by omitting “rule in a regional coastal plan and in any relevant proposed regional coastal plan” and substituting “national enviro-

onmental standard, a rule in a regional coastal plan as well as a rule in a proposed regional coastal plan for the same region (if there is one),”.

- (2) Section 12(2) is amended by omitting “rule in a regional coastal plan and in any relevant proposed regional coastal plan or by” and substituting “national environmental standard, a rule in a regional coastal plan as well as a rule in a proposed regional coastal plan for the same region (if there is one), or”.
- (3) Section 12(3) is amended by omitting “rule in a regional coastal plan or a proposed regional coastal plan” and substituting “national environmental standard, a rule in a regional coastal plan, or a rule in a proposed regional coastal plan for the same region (if there is one)”.
- (4) Section 12(4) is amended by inserting “national environmental standard or the” after “but for the”.
- (5) Section 12(5) is repealed and the following subsection substituted:
 - (5) This section applies to overflying by aircraft only to the extent to which noise emission controls for airports within the coastal marine area have been prescribed by a national environmental standard or set by a regional council.

13 Restriction on certain uses of beds of lakes and rivers

- (1) Section 13(1) is amended by omitting “rule in a regional plan and in any relevant proposed regional plan” and substituting “national environmental standard, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one),”.
- (2) Section 13(2) is repealed and the following subsections are substituted:
 - (2) No person may do an activity described in subsection (2A) in a manner that contravenes a national environmental standard or a regional rule unless the activity—
 - (a) is expressly allowed by a resource consent; or
 - (b) is an activity allowed by section 20A.
 - (2A) The activities are—
 - (a) to enter onto or pass across the bed of a lake or river;
 - (b) to damage, destroy, disturb, or remove a plant or a part of a plant, whether exotic or indigenous, in, on, or under the bed of a lake or river;
 - (c) to damage, destroy, disturb, or remove the habitats of plants or parts of plants, whether exotic or indigenous, in, on, or under the bed of a lake or river;
 - (d) to damage, destroy, disturb, or remove the habitats of animals in, on, or under the bed of a lake or river.

14 Restrictions relating to water

- (1) Section 14(1) and (2) are repealed and the following subsections substituted:

- (1) No person may take, use, dam, or divert any open coastal water, or take or use any heat or energy from any open coastal water, in a manner that contravenes a national environmental standard or a regional rule unless the activity—
 - (a) is expressly allowed by a resource consent; or
 - (b) is an activity allowed by section 20A.
- (2) No person may take, use, dam, or divert any of the following, unless the taking, using, damming, or diverting is allowed by subsection (3):
 - (a) water other than open coastal water; or
 - (b) heat or energy from water other than open coastal water; or
 - (c) heat or energy from the material surrounding geothermal water.
- (2) Section 14(3) is amended by omitting “subsection (1)” and substituting “subsection (2)”.
- (3) Section 14(3)(a) is amended by omitting “use, damming, or diversion is expressly allowed by a rule in a regional plan and in any relevant proposed regional plan” and substituting “using, damming, or diverting is expressly allowed by a national environmental standard, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one),”.

15 Discharge of contaminants into environment

- (1) Section 15(1) is amended by omitting “rule in a regional plan and in any relevant proposed regional plan, a resource consent, or regulations” and substituting “national environmental standard or other regulations, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent”.
- (2) Section 15(2) is repealed and the following subsections are substituted:
 - (2) No person may discharge a contaminant into the air, or into or onto land, from a place or any other source, whether moveable or not, in a manner that contravenes a national environmental standard unless the discharge—
 - (a) is expressly allowed by other regulations; or
 - (b) is expressly allowed by a resource consent; or
 - (c) is an activity allowed by section 20A.
 - (2A) No person may discharge a contaminant into the air, or into or onto land, from a place or any other source, whether moveable or not, in a manner that contravenes a regional rule unless the discharge—
 - (a) is expressly allowed by a national environmental standard or other regulations; or
 - (b) is expressly allowed by a resource consent; or
 - (c) is an activity allowed by section 20A.

16 Duty to avoid unreasonable noise

Section 16(2) is repealed and the following subsection substituted:

- (2) A national environmental standard, plan, or resource consent made or granted for the purposes of any of sections 9, 12, 13, 14, 15, 15A, and 15B may prescribe noise emission standards, and is not limited in its ability to do so by subsection (1).

17 Duty to avoid, remedy, or mitigate adverse effects

Section 17(1) is repealed and the following subsection substituted:

- (1) Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of the person, whether or not the activity is carried on in accordance with—
 - (a) any of sections 10, 10A, 10B, and 20A; or
 - (b) a national environmental standard, a rule, a resource consent, or a designation.

18 Sections 19 and 20 and heading above section 19 repealed

Sections 19 and 20 and the heading above section 19 are repealed.

19 New heading inserted

The following heading is inserted above section 20A:

Certain existing lawful activities allowed

20 Certain existing lawful activities allowed

- (1) Section 20A(1) is amended by omitting “being notified” and substituting “taking legal effect in accordance with section 86B or 149N(8)”.
- (2) Section 20A(1) is amended by omitting “was notified” in every place where the words appear and substituting “took legal effect in accordance with section 86B or 149N(8)” in each place.

21 New section 22 substituted

Section 22 is repealed and the following section substituted:

22 Duty to give certain information

- (1) This section applies when an enforcement officer has reasonable grounds to believe that a person (**person A**) is breaching or has breached any of the obligations under this Part.
- (2) The enforcement officer may direct person A to give the officer the following information:
 - (a) if person A is a natural person, his or her full name, address, and date of birth:

- (b) if person A is not a natural person, person A's full name and address.
- (3) The enforcement officer may also direct person A to give the officer the following information about a person (**person B**) on whose behalf person A is breaching or has breached the obligations under this Part:
 - (a) if person B is a natural person, his or her full name, address, and date of birth:
 - (b) if person B is not a natural person, person B's full name and address.

22 Functions of Minister for the Environment

Section 24(c) is repealed and the following paragraph substituted:

- (c) to decide whether to intervene in a matter, or to make a direction for a matter that is or is part of a proposal of national significance, under Part 6AA:

23 Power of Minister for the Environment to investigate and make recommendations

Section 24A(a) and (c) are amended by inserting "or regulations under this Act" after "Act".

24 New section 25B inserted

The following section is inserted after section 25A:

25B Ministers may direct commencement of review

- (1) The Minister may direct a regional council to commence a review of the whole or any part of its regional plan (except its regional coastal plan) and, if he or she does so, must specify a reasonable period within which the review must commence.
- (2) The Minister of Conservation may direct a regional council to commence a review of the whole or any part of its regional coastal plan and, if he or she does so, must specify a reasonable period within which the review must commence.
- (3) The Minister may direct a territorial authority to commence a review of the whole or any part of its district plan and, if he or she does so, must specify a reasonable period within which the review must commence.
- (4) For the purposes of subsections (1) to (3), section 79(5) to (9) apply to the review with any necessary modification.

25 Functions of Minister of Conservation

- (1) Section 28(c) is repealed.
- (2) Section 28(d) is amended by omitting "granted by the Minister of Conservation" and substituting "for restricted coastal activities".

26 New section 28A substituted

Section 28A is repealed and the following section substituted:

28A Regional council must supply information to Minister of Conservation

- (1) The Minister of Conservation may, if it is reasonable to do so, require a regional council to supply information about the regional council's monitoring of—
 - (a) a coastal permit relating to its region; or
 - (b) its regional coastal plan; or
 - (c) the exercise of a recognised customary activity in its region.
- (2) The Minister of Conservation must request the required information by giving a written and dated notice to the regional council.
- (3) The council must supply the information to the Minister of Conservation within—
 - (a) 20 working days of the date of the notice; or
 - (b) a longer time set by the Minister of Conservation.
- (4) The council must not charge for supplying the information.

27 Delegation of functions by Ministers

- (1) Section 29(1)(a) to (h) are repealed and the following paragraphs substituted:
 - (a) certifying any work or activity under section 4:
 - (b) appointing persons to exercise powers or perform functions or duties in place of a local authority under section 25:
 - (c) recommending the making of a national environmental standard under section 44:
 - (d) recommending the approval, change, or revocation of a national policy statement or a New Zealand coastal policy statement under section 52, 53, or 57:
 - (e) the following functions, powers, and duties under Part 6AA:
 - (i) deciding whether to make a direction under section 142(2) or 147(1) in relation to a matter that is or is part of a proposal of national significance:
 - (ii) appointing a board of inquiry under section 149J to consider a matter for which a direction has been made under section 142(2) or 147(1)(a):
 - (iii) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under section 142(2) or 147(1)(a):
 - (iv) deciding whether to intervene in a matter under section 149ZA:

- (v) deciding under section 149ZC whether to notify an application or notice of requirement to which section 149ZB applies:
 - (f) recommending the making of an Order in Council under section 150C:
 - (g) recommending the making of an Order in Council under section 165O:
 - (h) approving an applicant as a requiring authority under section 167:
 - (i) approving an applicant as a heritage protection authority under section 188:
 - (j) recommending the issue or amendment of a water conservation order under section 214 or 216:
 - (k) recommending the appointment of an Environment Judge or alternate Environment Judge under section 250:
 - (l) recommending the appointment of the Principal Environment Judge under section 251:
 - (m) recommending the appointment of an Environment Commissioner or Deputy Environment Commissioner under section 254:
 - (n) recommending the making of regulations under section 360:
 - (o) approving a regional coastal plan under clause 19 of Schedule 1:
 - (p) making a decision on any controls to be imposed on a recognised customary activity under Schedule 12:
 - (q) this power of delegation.
- (2) Section 29 is amended by adding the following subsections:
- (4) The Minister may, in writing, delegate to the Environmental Protection Authority his or her functions, powers, and duties under Part 6AA and sections 357B to 357D except the following:
- (a) deciding whether to make a direction under section 142(2) or 147(1) in relation to a matter that is or is part of a proposal of national significance:
 - (b) appointing a board of inquiry under section 149J to consider a matter for which a direction has been made under section 142(2) or 147(1)(a):
 - (c) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under section 142(2) or 147(1)(a):
 - (d) deciding whether to intervene in a matter under section 149ZA:
 - (e) deciding under section 149ZC whether to notify an application or notice of requirement to which section 149ZB applies.
- (5) A delegation under subsection (4)—
- (a) is revocable at will, but the revocation does not take effect until it is communicated in writing to the EPA; and

- (b) does not prevent the Minister from performing the functions or duties, or exercising the powers, concerned.

28 Delegation of powers and functions to employees and other persons

Section 34A(1)(a) is repealed and the following paragraph substituted:

- (a) the approval of a proposed policy statement or plan under clause 17 of Schedule 1:

29 Duty to gather information, monitor, and keep records

- (1) Section 35(1) is amended by inserting “or regulations under this Act” after “Act”.
- (2) Section 35(5)(f) is amended by inserting “national environmental standard or” after “any”.
- (3) Section 35(5)(ga) is amended by omitting “sections 93 to 94C” and substituting “sections 37, 87E, 95 to 95F, 198C, and 198H”.
- (4) Section 35(5)(h) is repealed.

30 Duty to keep records about iwi and hapu

Section 35A is amended by inserting “or regulations under this Act” after “Act” in each place where it appears.

31 Administrative charges

- (1) Section 36(1) is amended by inserting the following paragraphs after paragraph (a):
- (aa) charges payable by an applicant who makes a request under section 100A in relation to an application for a resource consent, even if 1 or more submitters also make a request, for the cost of the application being heard and decided in accordance with the request:
- (ab) charges payable if 1 or more submitters make a request under section 100A in relation to an application for a resource consent, but the applicant does not also make a request, as follows:
- (i) charges payable by the applicant for the amount that the local authority estimates it would cost for the application to be heard and decided if the request had not been made; and
- (ii) charges payable by the submitters who made a request for equal shares of any amount by which the cost of the application being heard and decided in accordance with the request exceeds the amount payable by the applicant under subparagraph (i):
- (ac) charges payable by a requiring authority or heritage protection authority who makes a request under section 100A in relation to a notice of requirement, even if 1 or more submitters also make a request, for the cost

of the requirement being heard and decided or recommended on in accordance with the request:

- (ad) charges payable if 1 or more submitters make a request under section 100A in relation to a notice of requirement, but the requiring authority or heritage protection authority does not also make a request, as follows:
 - (i) charges payable by the requiring authority or heritage protection authority for the amount that the local authority estimates it would cost for the requirement to be heard and decided or recommended on if the request had not been made; and
 - (ii) charges payable by the submitters who made a request for equal shares of any amount by which the cost of the requirement being heard and decided or recommended on in accordance with the request exceeds the amount payable by the authority under subparagraph (i):
- (2) Section 36(1)(b) is amended by inserting “any 1 or more of” after “local authority of”.
- (3) Section 36(1)(cb) is amended by inserting “any 1 or more of” after “local authority of”.
- (4) Section 36(1)(cb) is also amended by adding “; or” and also by adding the following subparagraph:
 - (iv) the review is carried out under section 128(2).
- (5) Section 36(1)(d) is amended by inserting “any 1 or more of” after “local authority of”.
- (6) Section 36 is amended by adding the following subsection:
- (8) However, subsection (7) does not apply to a charge to which subsection (1)(ab)(ii), (ad)(ii), or (cb)(iv) applies (relating to independent hearings commissioners requested by submitters or reviews required by a court order).

32 New section 36AA inserted

The following section is inserted after section 36:

36AA Local authority policy on discounting administrative charges

- (1) A local authority may provide a discount on an administrative charge imposed under section 36 in accordance with regulations made under section 360(1)(hj).
- (2) The Minister must recommend to the Governor-General within 9 months of the commencement of section 32 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 that regulations be made under section 360(1)(hj) and the Minister must, before making the recommendation, consult with local authorities about the proposed regulations.
- (3) A local authority may adopt, in accordance with the special consultative procedure set out in section 83 of the Local Government Act 2002, a policy in re-

spect of discounting administrative charges imposed under section 36 of this Act in the circumstances where—

- (a) an application for a resource consent or an application to change or cancel conditions under section 127 is not processed within the time frames set out in this Act; and
 - (b) the responsibility for the failure rests with the local authority.
- (4) The policy must specify—
- (a) the discount, or the method for determining the discount, that would be given for any application fees or charges paid or owing; and
 - (b) the procedure an applicant must follow to obtain the discount.
- (5) If a discount in a policy adopted under subsection (3) is more generous than that provided for in the regulations the local authority may comply with the policy instead of the regulations.

33 Requirements for waivers and extensions

Section 37A is amended by repealing subsection (3) and substituting the following subsections:

- (3) Instead of subsections (1) and (2), subsections (4) and (5) apply to an extension of a time limit imposed on a consent authority in respect of—
 - (a) an application for a resource consent; or
 - (b) an application to change or cancel a condition of a resource consent; or
 - (c) a review of a resource consent.
- (4) A consent authority may extend a time period under section 37 only if—
 - (a) the time period as extended does not exceed twice the maximum time period specified in this Act; and
 - (b) either—
 - (i) special circumstances apply (including special circumstances existing by reason of the scale or complexity of the matter); or
 - (ii) the applicant agrees to the extension; and
 - (c) the authority has taken into account the matters specified in subsection (1).
- (5) A consent authority may extend a time period under section 37 so that the extended period exceeds twice the maximum time period specified in the Act only if—
 - (a) the applicant agrees to the extension; and
 - (b) the authority has taken into account the matters specified in subsection (1).
- (6) A consent authority or a local authority must ensure that every person who, in its opinion, is directly affected by the extension of a time limit or the waiver of

compliance with a time limit, a method of service, or the service of a document is notified of the extension or waiver.

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

Section 37B(a) and (b) are repealed and the following paragraphs substituted:

- (a) the Minister, while carrying out any of his or her functions under Part 6AA:
- (b) a board of inquiry appointed under section 149J, while carrying out its functions under Part 6AA, except in respect of the time periods and requirements under section 149R:
- (ba) the EPA, while carrying out its functions under Part 6AA, except in respect of the time periods and requirements under section 146(1):

35 Authorisation and responsibilities of enforcement officers

(1) Section 38(3)(a) is repealed and the following paragraph substituted:

- (a) compliance with a resource consent issued by that Minister under section 31A:

(2) Section 38(3)(b) is repealed.

36 Hearings to be public and without unnecessary formality

- (1) Section 39(1) is amended by omitting “146” and substituting “149J”.
- (2) Section 39(1)(a) is amended by omitting “plan, or change or variation to a policy statement or plan” and substituting “a plan, a change, or a variation”.
- (3) Section 39(1)(c) is amended by omitting “an application for”.
- (4) Section 39(1)(d) is amended by omitting “change any” and substituting “change or cancel a”.
- (5) Section 39(1)(e) is repealed and the following paragraph substituted:

- (e) a matter for which a direction has been made under section 142(2) or 147(1)(a); or

(6) Section 39(1) is amended by inserting the following paragraph after paragraph (f):

- (fa) a requirement to alter a designation or heritage order; or

37 Directions to provide evidence within time limits

Section 41B(5) is repealed and the following subsections are substituted:

- (5) If the authority has exercised a power under this section, section 101(2) does not apply. Instead, subsection (6) or (7) of this section applies.

- (6) If section 87I, 198G, or 198N applies, the authority must hold the hearing no more than 30 working days after the date on which it knows that the section applies.
- (7) In any other case, the authority must hold the hearing within 40 working days after the closing date for submissions.

38 Directions and requests before or at hearings

Section 41C(5) is repealed and the following subsections are substituted:

- (5) The authority must provide a copy of any further information requested under subsection (2), and received before the hearing, to the applicant and every person who made a submission.
- (5A) Subsection (5B) applies to—
 - (a) any further information that—
 - (i) is requested under subsection (2) or (3); and
 - (ii) is received in writing or electronically after the start of the hearing; but
 - (iii) is not given as evidence at the hearing; and
 - (b) any report that is commissioned under subsection (4).
- (5B) The authority must—
 - (a) provide a copy of the further information or report to the applicant and every person who made a submission and stated a wish to be heard; and
 - (b) make the further information or report available at its office to any person who made a submission and did not state a wish to be heard.
- (5C) However, the authority does not need to provide further information to the applicant or submitter who provided the information.

39 Protection of sensitive information

Section 42(6)(b) is repealed and the following paragraph substituted:

- (b) **local authority** includes—
 - (i) a board of inquiry appointed under section 47 or 149J;
 - (ii) a community board;
 - (iii) a public body;
 - (iv) a special tribunal;
 - (v) a person given authority to conduct hearings under any of sections 33, 34, 34A, 117, and 202.

40 Reports to local authority

- (1) Section 42A(1) is amended by omitting “as defined in section 42(6)” and substituting “(as local authority is defined in section 42(6)(b))”.

- (2) Section 42A is amended by inserting the following subsections after subsection (1):
- (1A) The report does not need to repeat material from an assessment of environmental effects provided by the applicant.
- (1B) Instead, the report may—
- (a) adopt the whole assessment; or
 - (b) adopt any part of the assessment by referring to the part adopted.
- (3) Section 42A(3) and (4) are repealed and the following subsections substituted:
- (3) If the report is in writing, the local authority must provide a copy of it to the applicant, and to every person who made a submission and stated a wish to be heard at the hearing, so that they receive the copy—
- (a) at least 15 working days before the hearing, if the authority gives a direction under section 41B; or
 - (b) at least 5 working days before the hearing, if the authority does not give a direction under section 41B.
- (4) If the report is in writing, the authority must—
- (a) make the report available at its office to any person who made a submission and did not state a wish to be heard; and
 - (b) give written or electronic notice to those submitters that the report is available at the authority's office.
- (5) The local authority may waive compliance with—
- (a) subsection (3) if it is satisfied that there is no material prejudice, or is not aware of any material prejudice, to any person who should have been provided with a copy of the report under that subsection; or
 - (b) subsection (4)(b) if it is satisfied that there is no material prejudice, or is not aware of any material prejudice, to any person who should have been given notice of the report under that paragraph.

41 New Part 4A inserted

The following Part is inserted after Part 4:

- Part 4A**
- Environmental Protection Authority**
- 42B Establishment of Environmental Protection Authority**
This section establishes the Environmental Protection Authority.
- 42C Functions of EPA**
The functions of the Environmental Protection Authority are—

- (a) to receive matters lodged under section 145:
- (b) to make recommendations to the Minister under section 146 or 149ZB in respect of a matter referred to in paragraph (a):
- (c) to make decisions under section 139 on applications for certificates of compliance for proposals or activities that are related to proposals of national significance:
- (d) to provide secretarial and support services to boards of inquiry appointed under section 149J:
- (e) to exercise any powers or perform any functions or duties delegated to it by the Minister under section 29(4):
- (f) to exercise any other functions specified in this Act.

42D Secretary for the Environment to exercise functions of EPA

- (1) The Environmental Protection Authority is an office within the Ministry for the Environment.
- (2) The Secretary for the Environment has and may exercise all the powers and perform all the functions and duties of the Environmental Protection Authority.
- (3) The Secretary for the Environment may delegate any function, duty, or power imposed upon him or her by the operation of subsection (2) to any employee of the Ministry for the Environment.
- (4) In this section, **Secretary for the Environment** means the person appointed in accordance with section 29 of the Environment Act 1986 as the Secretary for the Environment (being the administrative head of the Ministry for the Environment).

42 New sections 43AA to 43AAC inserted

The following sections are inserted after the heading to Part 5:

43AA Interpretation

In this Act, unless the context requires another meaning,—

change means—

- (a) a change proposed by a local authority to a policy statement or plan under clause 2 of Schedule 1; and
- (b) a change proposed by any person to a policy statement or plan by a request under clause 21 of Schedule 1

district plan—

- (a) means an operative plan approved by a territorial authority under Schedule 1; and
- (b) includes all operative changes to the plan (whether arising from a review or otherwise)

operative, in relation to a policy statement or plan, or a provision of a policy statement or plan, means that the policy statement, plan, or provision—

- (a) has become operative—
 - (i) in terms of clause 20 of Schedule 1; or
 - (ii) under section 86F; and
- (b) has not ceased to be operative

plan means a regional plan or a district plan

policy statement means a regional policy statement

proposed policy statement means a proposed policy statement that has been notified under clause 5 of Schedule 1 but has not become operative in terms of clause 20 of Schedule 1

regional coastal plan—

- (a) means an operative plan approved by the Minister of Conservation under Schedule 1; and
- (b) includes all operative changes to the plan (whether arising from a review or otherwise)

regional plan—

- (a) means an operative plan approved by a regional council under Schedule 1 (including all operative changes to the plan (whether arising from a review or otherwise)); and
- (b) includes a regional coastal plan

regional policy statement—

- (a) means an operative regional policy statement approved by a regional council under Schedule 1; and
- (b) includes all operative changes to the policy statement (whether arising from a review or otherwise)

rule means a district rule or a regional rule

variation means an alteration by a local authority under clause 16A of Schedule 1 to—

- (a) a proposed policy statement or plan; or
- (b) a change.

43AAB Meaning of district rule and regional rule

- (1) In this Act, unless the context otherwise requires, **district rule** means a rule made as part of a district plan or proposed district plan in accordance with section 76.
- (2) Subsection (1) is subject to section 86B and clause 10(5) of Schedule 1.

- (3) In this Act, unless the context otherwise requires, **regional rule** means a rule made as part of a regional plan or proposed regional plan in accordance with section 68.
- (4) Subsection (3) is subject to section 86B and clause 10(5) of Schedule 1.

43AAC Meaning of proposed plan

- (1) In this Act, unless the context otherwise requires, **proposed plan**—
 - (a) means a proposed plan, a variation to a proposed plan or change, or a change to a plan proposed by a local authority that has been notified under clause 5 of Schedule 1 but has not become operative in terms of clause 20 of Schedule 1; and
 - (b) includes a proposed plan or a change to a plan proposed by a person under Part 2 of Schedule 1 that has been adopted by the local authority under clause 25(2)(a) of Schedule 1.
- (2) Subsection (1) is subject to section 86B and clause 10(5) of Schedule 1.

43 Additional powers to implement national environmental standards

- (1) The heading to section 43A is omitted and the heading “**Contents of national environmental standards**” is substituted.
- (2) Section 43A is amended by adding the following subsection:
- (7) A national environmental standard may specify the activities for which the consent authority—
 - (a) must give public notification of an application for a resource consent:
 - (b) is precluded from giving public notification of an application for a resource consent:
 - (c) is precluded from giving limited notification of an application for a resource consent.

44 Relationship between national environmental standards and rules or consents

Section 43B(5) to (8) are repealed and the following subsections substituted:

- (5) A land use consent or a subdivision consent granted before the date on which a national environmental standard is notified in the *Gazette* prevails over the standard.
- (6) A coastal, water, or discharge permit granted before the date on which a national environmental standard is notified in the *Gazette* prevails over the standard until a review of the permit’s conditions under section 128(1)(ba) results in some or all of the standard prevailing over the permit.
- (7) This subsection applies to a resource consent not covered by subsection (5) or (6). The consent prevails over a national environmental standard if the application giving rise to the consent was the subject of a decision on whether to noti-

fy it before the date on which the standard is notified in the *Gazette*. However, the consent does not prevail if the standard expressly provides otherwise.

45 New sections 44 and 44A substituted

Section 44 is repealed and the following sections are substituted:

44 Restriction on power to make national environmental standards

- (1) The Minister must follow the steps set out in subsection (2) before recommending the making of a national environmental standard to the Governor-General. Subsection (3) modifies this subsection.
- (2) The steps are—
 - (a) to notify the public and iwi authorities of—
 - (i) the proposed subject matter of the standard; and
 - (ii) the Minister's reasons for considering that the standard is consistent with the purpose of the Act; and
 - (b) to establish a process that—
 - (i) the Minister considers gives the public and iwi authorities adequate time and opportunity to comment on the proposed subject matter of the standard; and
 - (ii) requires a report and recommendation to be made to the Minister on those comments and the proposed subject matter of the standard; and
 - (c) to publicly notify the report and recommendation.
- (3) The Minister need not follow the steps if the Minister is recommending the making of an amendment—
 - (a) that has no more than a minor effect; or
 - (b) that corrects errors or makes similar technical alterations.

44A Local authority recognition of national environmental standards

- (1) Subsections (3) to (5) apply if a local authority's plan or proposed plan contains a rule that duplicates a provision in a national environmental standard.
- (2) Subsections (3) to (5) apply if a local authority's plan or proposed plan contains a rule that conflicts with a provision in a national environmental standard. A rule conflicts with a provision if—
 - (a) both of the following apply:
 - (i) the rule is more stringent than the provision in that it prohibits or restricts an activity that the provision permits or authorises; and
 - (ii) the standard does not expressly say that a rule may be more stringent than it; or
 - (b) the rule is more lenient than the provision.

- (3) If the duplication or conflict is dealt with in the national environmental standard in one of the ways described in section 43A(1)(e), the local authority must amend the plan or proposed plan to remove the duplication or conflict—
 - (a) without using the process in Schedule 1; and
 - (b) in accordance with the specification in the national environmental standard.
- (4) If the duplication or conflict arises as described in section 43A(5)(c), the local authority must amend the plan or proposed plan to remove the duplication or conflict—
 - (a) without using the process in Schedule 1; and
 - (b) as soon as practicable after the date on which the standard comes into force.
- (5) In every other case of duplication or conflict, the local authority must amend the plan or proposed plan to remove the duplication or conflict—
 - (a) without using the process in Schedule 1; and
 - (b) as soon as practicable after the date on which the standard comes into force.
- (6) A local authority may amend a plan or proposed plan to include a reference to a national environmental standard—
 - (a) without using the process in Schedule 1; and
 - (b) after the date on which the standard comes into force.
- (7) Every local authority and consent authority must observe national environmental standards.
- (8) Every local authority and consent authority must enforce the observance of national environmental standards to the extent to which their powers enable them to do so.

46 Minister chooses process

- (1) Section 46A(2)(b)(i) is repealed and the following subparagraphs are substituted:
 - (i) national environmental standards; and
 - (ia) other national policy statements; and
- (2) Section 46A(3) is repealed.

47 Board of inquiry

Section 47 is amended by adding the following subsection:

- (3) A member of the board of inquiry is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the board.

48 New section 47A inserted

The following section is inserted after section 47:

47A Board of inquiry to suspend consideration or consider additional material

- (1) The Minister may, at any time before a board of inquiry reports to the Minister under section 51(2), do either or both of the following:
 - (a) direct the board to suspend its inquiry for a specified period or until a specified event occurs (for example, until the Minister provides the board with additional material);
 - (b) provide the board with additional material to consider.
- (2) The Minister must give public notice of a direction under subsection (1)(a), including the reasons for the direction.
- (3) A board of inquiry must suspend its inquiry in accordance with a direction under subsection (1)(a).

49 Conduct of hearing

Section 50(3) is repealed and the following subsections are substituted:

- (3) The Minister has the right to be heard at the hearing, despite anything in sections 39 to 42.
- (4) To avoid doubt, subsection (3) does not limit the right of other persons to be heard under section 40.

50 Matters to be considered and board of inquiry's report

Section 51(1) is amended by inserting the following paragraph after paragraph (c):

- (ca) any additional material provided by the Minister under section 47A(1)(b); and

51 New section 51A inserted

The following section is inserted after section 51:

51A Withdrawal of proposed national policy statement

- (1) The Minister may withdraw all or part of a proposed national policy statement at any time before the statement is approved under section 52(2).
- (2) The Minister must give public notice of the withdrawal, including the reasons for the withdrawal.
- (3) If a board of inquiry has not reported to the Minister under section 51(2) before public notice is given—
 - (a) withdrawing all matters the board was appointed to inquire into, the board is discharged on and from the date of the notice; or

- (b) withdrawing any, but not all, of the matters the board was appointed to inquire into, the board must inquire into and report on only the matters that have not been withdrawn, despite any other section of this Act.

52 Consideration of recommendations and approval of statement

- (1) The heading to section 52 is amended by inserting “**or withdrawal**” after “**approval**”.
- (2) Section 52(1) is repealed and the following subsection substituted:
 - (1) The Minister must consider a report and any recommendations made to him or her by a board of inquiry under section 51 and then may—
 - (a) make any changes, or no changes, to the proposed national policy statement as he or she thinks fit; or
 - (b) withdraw all or part of the proposed national policy statement and give public notice of the withdrawal, including the reasons for the withdrawal.
- (3) Section 52(3)(c) is repealed and the following paragraph substituted:
 - (c) provide every person who made a submission on the statement with a summary of the recommendations and a summary of the Minister’s decision on the recommendations (including reasons for not adopting any recommendations); and

53 Local authority recognition of national policy statements

Section 55(2) and (2A) are repealed and the following subsections substituted:

- (2) A local authority must amend a document, if a national policy statement directs so,—
 - (a) to include specific objectives and policies set out in the statement; or
 - (b) so that objectives and policies specified in the document give effect to objectives and policies specified in the statement.
- (2A) The local authority must—
 - (a) make the amendments referred to in subsection (2) without using the process in Schedule 1; and
 - (b) give public notice of the amendments within 5 working days after making them.
- (2B) The local authority must also make all other amendments to a document that are required to give effect to any provision in a national policy statement that affects the document.
- (2C) The local authority must make the amendments referred to in subsection (2B) using the process in Schedule 1.
- (2D) In all cases, the local authority must make the amendments—
 - (a) as soon as practicable; or
 - (b) within the time specified in the national policy statement (if any); or

- (c) before the occurrence of an event specified in the national policy statement (if any).

54 Contents of New Zealand coastal policy statements

Section 58(e) is repealed and the following paragraph substituted:

- (e) the matters to be included in 1 or more regional coastal plans in regard to the preservation of the natural character of the coastal environment, including the activities that are required to be specified as restricted coastal activities because the activities—
 - (i) have or are likely to have significant or irreversible adverse effects on the coastal marine area; or
 - (ii) relate to areas in the coastal marine area that have significant conservation value:

55 Matters to be considered by regional council (policy statements)

Section 61(3) is amended by adding “or the effects of trade competition”.

56 Matters to be considered by regional council (plans)

Section 66(3) is amended by adding “or the effects of trade competition”.

57 Regional rules

Section 68(11) is amended by omitting “If paragraph (b) of the definition of contaminated land applies, a” and substituting “A”.

58 Matters to be considered by territorial authority

Section 74(3) is amended by adding “or the effects of trade competition”.

59 District rules

- (1) Section 76 is amended by inserting the following subsections after subsection (4):

(4A) However, a rule must not prohibit or restrict the felling, trimming, damaging, or removal of any tree or group of trees in an urban environment unless the tree or group of trees is—

- (a) specifically identified in the plan; or
- (b) located within an area in the district that—
 - (i) is a reserve (within the meaning of section 2(1) of the Reserves Act 1977); or
 - (ii) is subject to a conservation management plan or conservation management strategy prepared in accordance with the Conservation Act 1987 or the Reserves Act 1977.

(4B) In subsection (4A), **urban environment** means an allotment no greater than 4000 m²—

- (a) that is connected to a reticulated water supply system and a reticulated sewerage system; and
 - (b) on which is a building used for industrial or commercial purposes, or a dwellinghouse.
- (2) Section 76(5) is amended by omitting “If paragraph (b) of the definition of contaminated land applies, a” and substituting “A”.

60 New sections 77A and 77B substituted

Sections 77A and 77B are repealed and the following sections substituted:

77A Power to make rules to apply to classes of activities and specify conditions

- (1) A local authority may—
- (a) categorise activities as belonging to one of the classes of activity described in subsection (2); and
 - (b) make rules in its plan or proposed plan for each class of activity that apply—
 - (i) to each activity within the class; and
 - (ii) for the purposes of that plan or proposed plan; and
 - (c) specify conditions in a plan or proposed plan, but only if the conditions relate to the matters described in section 108 or 220.
- (2) An activity may be—
- (a) a permitted activity; or
 - (b) a controlled activity; or
 - (c) a restricted discretionary activity; or
 - (d) a discretionary activity; or
 - (e) a non-complying activity; or
 - (f) a prohibited activity.
- (3) Subsection (1)(b) is subject to section 77B.

77B Duty to include certain rules in relation to controlled or restricted discretionary activities

- (1) Subsection (2) applies if a local authority makes a rule in its plan or proposed plan classifying an activity as a controlled activity.
- (2) The local authority must specify in the rule the matters over which it has reserved control in relation to the activity.
- (3) Subsection (4) applies if a local authority makes a rule in its plan or proposed plan classifying an activity as a restricted discretionary activity.
- (4) The local authority must specify in the rule the matters over which it has restricted its discretion in relation to the activity.

61 Section 77C repealed

Section 77C is repealed.

62 New section 77D substituted

Section 77D is repealed and the following section substituted:

77D Rules specifying activities for which consent applications must be notified or are precluded from being notified

A local authority may make a rule specifying the activities for which the consent authority—

- (a) must give public notification of an application for a resource consent:
- (b) is precluded from giving public notification of an application for a resource consent:
- (c) is precluded from giving limited notification of an application for a resource consent.

63 Section 78A repealed

Section 78A is repealed.

64 New section 79 substituted

Section 79 is repealed and the following section substituted:

79 Review of policy statements and plans

- (1) A local authority must commence a review of a provision of any of the following documents it has, if the provision has not been a subject of a proposed policy statement or plan, a review, or a change by the local authority during the previous 10 years:
 - (a) a regional policy statement:
 - (b) a regional plan:
 - (c) a district plan.
- (2) If, after reviewing the provision, the local authority considers that it requires alteration, the local authority must, in the manner set out in Part 1 of Schedule 1 and this Part, propose to alter the provision.
- (3) If, after reviewing the provision, the local authority considers that it does not require alteration, the local authority must still publicly notify the provision—
 - (a) as if it were a change; and
 - (b) in the manner set out in Part 1 of Schedule 1 and this Part.
- (4) Without limiting subsection (1), a local authority may, at any time, commence a full review of any of the following documents it has:
 - (a) a regional policy statement:

- (b) a regional plan:
- (c) a district plan.
- (5) In carrying out a review under subsection (4), the local authority must review all the sections of, and all the changes to, the policy statement or plan regardless of when the sections or changes became operative.
- (6) If, after reviewing the statement or plan under subsection (4), the local authority considers that it requires alteration, the local authority must alter the statement or plan in the manner set out in Part 1 of Schedule 1 and this Part.
- (7) If, after reviewing the statement or plan under subsection (4), the local authority considers that it does not require alteration, the local authority must still publicly notify the statement or plan—
 - (a) as if it were a proposed policy statement or plan; and
 - (b) in the manner set out in Part 1 of Schedule 1 and this Part.
- (8) A provision of a policy statement or plan, or the policy statement or plan, as the case may be, does not cease to be operative because the provision, statement, or plan is due for review or is being reviewed under this section.
- (9) The obligations on a local authority under this section are in addition to its duty to monitor under section 35.

65 Circumstance when further review required

Section 79A(3) is amended by omitting “Section 79(4), (5), and (6)” and substituting “Section 79(5), (8), and (9)”.

66 New section 80 substituted

Section 80 is repealed and the following section substituted:

80 Combined regional and district documents

- (1) Local authorities may prepare, implement, and administer the combined regional and district documents as set out in subsections (2) to (6).
- (2) A local authority may prepare, implement, and administer a document that meets the requirements of 2 or more of the following:
 - (a) a regional policy statement:
 - (b) a regional plan, including a regional coastal plan:
 - (c) a district plan.
- (3) Two or more territorial authorities may prepare, implement, and administer a combined district plan for the whole or any part of their combined districts.
- (4) Two or more regional councils may prepare, implement, and administer a document that meets the requirements of the following:
 - (a) a regional plan, including a regional coastal plan, for the whole or any part of their combined regions:

- (b) a regional policy statement, for the whole or any part of their combined regions:
 - (c) a regional plan, including a regional coastal plan, and a regional policy statement, for the whole or any part of their combined regions.
- (5) One or more regional councils or territorial authorities may prepare, implement, and administer a combined regional and district plan for the whole or any part of their respective regions or districts.
- (6) A regional council and all the territorial authorities within the region may prepare, implement, and administer a document that meets the requirements of the following:
- (a) a regional policy statement for the region; and
 - (b) a regional plan, including a regional coastal plan, for the region; and
 - (c) either—
 - (i) a district plan for each of the territorial authorities; or
 - (ii) a combined district plan for their combined districts.
- (7) Without limiting subsections (1) to (6), local authorities must consider the preparation of the appropriate combined document under this section whenever significant cross-boundary issues relating to the use, development, or protection of natural and physical resources arise or are likely to arise.
- (8) A combined document prepared under this section must clearly identify—
- (a) the provisions of the document that are the regional policy statement, the regional plan, the regional coastal plan, or the district plan, as the case may be; and
 - (b) the objectives, policies, and methods set out or described in the document that have the effect of being provisions of the regional policy statement; and
 - (c) which local authority is responsible for observing, and enforcing the observance of, each provision of the document.
- (9) A combined document prepared under this section—
- (a) must be prepared in accordance with Schedule 1; and
 - (b) when approved by a local authority is deemed, for the purposes of this Act, to be a plan or regional policy statement separately prepared and approved by that authority for its region or district, as the case may be.
- (10) Subsection (9)(b) applies whether or not the combined document is approved by any of the other local authorities concerned.
- (11) Clause 30 of Schedule 7 of the Local Government Act 2002 applies to the appointment and conduct of any joint committee set up for the purposes of preparing, implementing, or administering a combined document under this section.

67 Disputes

Section 82(3) is repealed and the following subsections are substituted:

- (3) If a dispute about whether there is an inconsistency described in subsection (1)(a) or (b) is referred to the Court, and the Court considers that there is an inconsistency, the Court must order the authority responsible for the policy statement or plan to remove the inconsistency by initiating a change to the policy statement or plan using the process in Schedule 1.
- (4) If a dispute about whether a regional policy statement or a plan gives effect to a national policy statement or New Zealand coastal policy statement is referred to the Court, and the Court considers that the policy statement or plan does not give effect to the other policy statement, the Court must order the authority responsible for the policy statement or plan to amend it in accordance with section 55.
- (5) However, the Court does not need to make an order under subsection (3) or (4) if it considers that the inconsistency, or failure to give effect to the other policy statement, is of minor significance that does not affect the general intent and purpose of the policy statement, plan, or water conservation order concerned.
- (6) To avoid doubt, giving effect to a policy statement includes giving effect to it by complying with a direction described in section 55(2).

68 New heading and sections 86A to 86G inserted

The following heading and sections are inserted after section 86:

Legal effect of rules

86A Purpose of sections 86B to 86G

- (1) The purpose of sections 86B to 86G is to specify when a rule in a proposed plan or change described in section 86B(6) has legal effect.
- (2) Except to the extent that subsection (1) applies, sections 86B to 86G do not limit or affect the weight that a consent authority gives to objectives, policies, and other issues, reasons, or methods in plans before the plan becomes operative.

86B When rules in proposed plans and changes have legal effect

- (1) A rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1, except if—
 - (a) subsection (3) applies; or
 - (b) the Environment Court, in accordance with section 86D, orders the rule to have legal effect from a different date (being the date specified in the court order); or

- (c) the local authority concerned resolves that the rule has legal effect only once the proposed plan becomes operative in accordance with clause 20 of Schedule 1.
- (2) However, subsection (1)(c) applies only if—
 - (a) the local authority makes the decision before publicly notifying the proposed plan under clause 5 of Schedule 1; and
 - (b) the public notification includes the decision; and
 - (c) the decision is not subsequently rescinded (in which case the rule has legal effect from a date determined in accordance with section 86C).
- (3) A rule in a proposed plan has immediate legal effect if the rule—
 - (a) protects or relates to water, air, or soil (for soil conservation); or
 - (b) protects areas of significant indigenous vegetation; or
 - (c) protects areas of significant habitats of indigenous fauna; or
 - (d) protects historic heritage; or
 - (e) provides for or relates to an aquaculture management area.
- (4) For the purposes of subsection (2)(c), a decision is **rescinded** if—
 - (a) the local authority publicly notifies that the decision is rescinded; and
 - (b) the public notice includes a statement of the decision to which it relates and the date on which the rescission was made.
- (5) For the purposes of subsection (3), **immediate legal effect** means legal effect on and from the date on which the proposed plan containing the rule is publicly notified under clause 5 of Schedule 1.
- (6) A rule in a change to a plan proposed by a person under Part 2 of Schedule 1 that provides for or relates to an aquaculture management area and that has been accepted by the local authority under clause 25(2)(b) of Schedule 1 has legal effect on and from the date the change is publicly notified under clause 26(b) of that schedule.

86C When rule has legal effect if decision to delay its effect is rescinded

- (1) This section applies to a rule to which section 86B(1)(c) applies that is rescinded (within the meaning of subsection (4) of that section).
- (2) The rule has legal effect from the later of—
 - (a) the day after the date on which the local authority concerned publicly notifies that the decision in relation to the rule is rescinded;
 - (b) the day that a decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1.

86D Environment Court may order rule to have legal effect from date other than standard date

- (1) In this section, **rule** means a rule—
 - (a) in a proposed plan or change; and
 - (b) that is not a rule of a type described in section 86B(3)(a) to (e) or (6).
- (2) A local authority may apply before or after the proposed plan is publicly notified under clause 5 of Schedule 1 to the Environment Court for a rule to have legal effect from a date other than the date on which the decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1.
- (3) If the Court grants the application, the order must specify the date from which the rule is to have legal effect, being a date no earlier than the later of—
 - (a) the date that the proposed plan is publicly notified; and
 - (b) the date of the court order.

86E Local authorities must identify rules having early or delayed legal effect

- (1) A local authority must clearly identify any rule in a proposed plan that has legal effect from a date other than the date on which the decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1—
 - (a) at the time the proposed plan is notified under clause 5 of the Schedule; or
 - (b) as soon as practicable after the date is determined, if the rule concerned is the subject of an application under section 86D and the application is not determined before the proposed plan is notified.
- (2) A local authority must clearly identify any rule of a type described in section 86B(6) at the time the change containing the rule is publicly notified.
- (3) The identification of a rule in a proposed plan or change under subsection (1) or (2)—
 - (a) does not form part of the proposed plan or change; and
 - (b) may be removed, without any further authority than this subsection, by the local authority once the plan or change becomes operative in accordance with clause 20 of Schedule 1.

86F When rules in proposed plans must be treated as operative

A rule in a proposed plan must be treated as operative (and any previous rule as inoperative) if the time for making submissions or lodging appeals on the rule has expired and, in relation to the rule,—

- (a) no submissions in opposition have been made or appeals have been lodged; or

- (b) all submissions in opposition and appeals have been determined; or
- (c) all submissions in opposition have been withdrawn and all appeals withdrawn or dismissed.

86G Rule that has not taken legal effect or become operative excluded from references to rule in this Act and regulations made under this Act

- (1) A reference in this Act or in any regulations made under it to a rule in a proposed plan or a change does not include a reference to a rule in the proposed plan or change that—
 - (a) has not taken legal effect in accordance with section 86B; or
 - (b) has not become operative under section 86F.
- (2) Subsection (1) applies subject to any express provision to the contrary in this Act.

69 New sections 87A to 87I inserted

The following sections are inserted after section 87:

87A Classes of activities

- (1) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a permitted activity, a resource consent is not required for the activity if it complies with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.
- (2) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a controlled activity, a resource consent is required for the activity and—
 - (a) the consent authority must grant a resource consent (except if section 106 applies); and
 - (b) the consent authority's power to impose conditions on the resource consent is restricted to the matters over which control is reserved (whether in its plan or proposed plan, a national environmental standard, or otherwise); and
 - (c) the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.
- (3) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a restricted discretionary activity, a resource consent is required for the activity and—
 - (a) the consent authority's power to decline a consent, or to grant a consent and to impose conditions on the consent, is restricted to the matters over which discretion is restricted (whether in its plan or proposed plan, a national environmental standard, or otherwise); and

- (b) if granted, the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.
- (4) If an activity is described in this Act, regulations (including any national environmental standard), a plan, or a proposed plan as a discretionary activity, a resource consent is required for the activity and—
 - (a) the consent authority may decline the consent or grant the consent with or without conditions; and
 - (b) if granted, the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.
- (5) If an activity is described in this Act, regulations (including a national environmental standard), a plan, or a proposed plan as a non-complying activity, a resource consent is required for the activity and the consent authority may—
 - (a) decline the consent; or
 - (b) grant the consent, with or without conditions, but only if the consent authority is satisfied that the requirements of section 104D are met and the activity must comply with the requirements, conditions, and permissions, if any, specified in the Act, regulations, plan, or proposed plan.
- (6) If an activity is described in this Act, regulations (including a national environmental standard), a plan, or a proposed plan as a prohibited activity,—
 - (a) no application for a resource consent may be made for the activity; and
 - (b) the consent authority must not grant a consent for it.

87B Certain activities to be treated as discretionary activities or prohibited activities

- (1) An application for a resource consent for an activity must, with the necessary modifications, be treated as an application for a resource consent for a discretionary activity if—
 - (a) Part 3 requires a resource consent to be obtained for the activity and there is no plan or proposed plan, or no relevant rule in a plan or proposed plan; or
 - (b) a plan or proposed plan requires a resource consent to be obtained for the activity, but does not classify the activity as controlled, restricted discretionary, discretionary, or non-complying under section 77A; or
 - (c) a rule in a proposed plan describes the activity as a prohibited activity and the rule has not become operative.
- (2) Prospecting, exploring, or mining for Crown owned minerals in the internal waters (as defined in section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977) of the Coromandel Peninsula must be treated as a prohibited activity.

- (3) Subsection (2) does not apply to prospecting, exploring, or mining activities set out in section 61(1A) of the Crown Minerals Act 1991.
- (4) An activity prohibited by section 105(2)(b) of the Historic Places Act 1993 must be treated as a prohibited activity.

Streamlining decision-making on resource consents

87C Sections 87D to 87I apply to resource consent applications

- (1) Sections 87D to 87I apply when an applicant wants one of the following applications to be determined by the Environment Court instead of by a consent authority:
 - (a) an application for a resource consent that has been notified;
 - (b) an application to change or cancel a condition of a resource consent that has been notified.
- (2) If the application is called in under section 142(2), sections 87D to 87I cease to apply to it.

87D Request for application to go directly to Environment Court

- (1) The applicant must request the relevant consent authority to allow the application to be determined by the Environment Court instead of by the consent authority.
- (2) The applicant must make the request in the period—
 - (a) starting on the day on which the application is made; and
 - (b) ending 5 working days after the date on which the period for submissions on the application closes.
- (3) The applicant must make the request electronically or in writing on the prescribed form.

87E Consent authority's decision on request

- (1) If the consent authority determines under section 88(3) that the application is incomplete, it must return the request with the application without making a decision on the request. Section 88(4) and (5) apply to the application.
- (2) If the consent authority receives the request after it has determined that the application will not be notified, it must return the request.
- (3) If the consent authority receives the request before it has determined whether the application will be notified, it must defer its decision on the request until after it has decided whether to notify the application and then apply either subsection (4) or (5).
- (4) If the consent authority decides not to notify the application, it must return the request.

- (5) If the consent authority decides to notify the application, it must give the applicant its decision on the request within 15 working days after the date of the decision on notification.
- (6) In any other case, the consent authority must give the applicant its decision on the request within 15 working days after receiving the request.
- (7) No submitter has a right to be heard by the consent authority on a request.
- (8) If the consent authority returns or declines the request, it must give the applicant its reasons, in writing or electronically, at the same time as it gives the applicant its decision.
- (9) If the consent authority declines the request under subsection (5) or (6) the applicant may object to the consent authority under section 357A(1)(e).

87F Consent authority's subsequent processing

- (1) If the consent authority does not grant the applicant's request under section 87D, the consent authority must continue to process the application.
- (2) If the consent authority grants the applicant's request under section 87D, the consent authority must continue to process the application and must comply with subsections (3) to (5).
- (3) The consent authority must prepare a report on the application within the longer of the following periods:
 - (a) the period that ends 20 working days after the date on which the period for submissions on the application closes;
 - (b) the period that ends 20 working days after the date on which the authority decides to grant the request.
- (4) In the report, the consent authority may—
 - (a) address issues that are set out in sections 104 to 112 to the extent that they are relevant to the application; and
 - (b) suggest conditions that it considers should be imposed if the Environment Court grants the application.
- (5) As soon as is reasonably practicable after the report is prepared, the consent authority must provide a copy to—
 - (a) the applicant; and
 - (b) every person who made a submission on the application.

87G Environment Court determines application

- (1) Subsection (2) applies to an applicant who—
 - (a) receives a report provided under section 87F(5); and
 - (b) continues to want the application to be determined by the Environment Court instead of by a consent authority.
- (2) The applicant must,—

- (a) within 10 working days after receiving the report, lodge with the Environment Court a notice of motion in the prescribed form specifying the orders sought and the grounds upon which the application is made, and a supporting affidavit as to the matters giving rise to the application; and
 - (b) as soon as is reasonably practicable after lodging the notice of motion, serve a copy of the notice of motion and affidavit on—
 - (i) the consent authority that granted the applicant's request under section 87D; and
 - (ii) every person who made a submission to the authority on the application; and
 - (c) tell the Registrar of the Environment Court when the copies have been served.
- (3) A consent authority served under subsection (2)(b)(i) must, without delay, provide the Environment Court with—
- (a) the application to which the notice of motion relates; and
 - (b) the authority's report on the application; and
 - (c) all the submissions on the application that the authority received; and
 - (d) all the information and reports on the application that the authority was supplied with.
- (4) Section 274 applies to the notice of motion.
- (5) Part 11 applies to proceedings under this section.
- (6) If considering a matter that is an application for a resource consent, the Court must apply sections 104 to 112 and 138A as if it were a consent authority.
- (7) If considering a matter that is an application for a change to or cancellation of conditions of a resource consent, the Court must apply sections 104 to 112 as if—
- (a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and
 - (b) every reference to a resource consent and to the effects of the activity were, respectively, a reference to the change or cancellation of a condition and the effects of the change or cancellation.

87H Residual powers of consent authority

The consent authority that would have determined the application had the Environment Court not done so under section 87G has all the functions, duties, and powers in relation to a resource consent granted by the Court as if it had granted the consent itself.

87I When consent authority must determine application

- (1) This section applies when—

- (a) an applicant receives a report under section 87F(5); and
 - (b) either—
 - (i) the applicant advises the authority that the applicant does not intend to lodge a notice of motion with the Environment Court under section 87G(2); or
 - (ii) the applicant does not lodge a notice of motion with the Environment Court under section 87G(2); and
 - (c) the applicant continues to want the application determined.
- (2) The application must be determined by the consent authority.

70 Description of type of activity to remain same

- (1) Section 88A(1)(a) is amended by inserting “or 145” after “section 88”.
- (2) Section 88A(1)(b) is amended by omitting “under section 88, or for which the activity is treated under section 77C” and substituting “, or that the application was treated as being made under section 87B” and also by omitting “clause 10(3)” and substituting “clause 10(1)”.
- (3) Section 88A(3) is repealed.

71 New sections 88B to 88E substituted

Sections 88B and 88C are repealed and the following sections substituted:

88B Time limits from which time periods are excluded

- (1) Subsection (2) lists the time limits from which certain time periods must be excluded. Subsection (3) lists the time periods that must be excluded from the time limits.
- (2) The time limits are those in the following provisions:
 - (a) section 95, which deals with the time limit for notification:
 - (b) section 41B(6) and (7), which deal with the time limits for the commencement of a hearing if a direction is given under section 41B:
 - (c) section 87F(3), which deals with the time limit for the preparation of a consent authority report where an application is to be determined by the Environment Court under section 87G:
 - (d) section 101(2), which deals with the time limits for the commencement of a hearing if no direction is given under section 41B:
 - (e) section 115, which deals with the time limit for notification of the decision on an application for a resource consent:
 - (f) section 173, which deals with the time limit for notification of the decision on a designation:

- (g) section 198D(3), which deals with the time limit for the preparation of a territorial authority report where an application is to be determined by the Environment Court under section 198E;
 - (h) section 198J(2), which deals with the time limit for the preparation of a territorial authority report where an application is to be determined by the Environment Court under section 198K.
- (3) The time periods are those described in the following provisions:
- (a) section 88C(2), (4), and (6):
 - (b) section 88D(2), (4), (6), (8), (10), (12), and (14):
 - (c) section 88E(2), (4), and (6).
- (4) Despite subsection (3), any applicable time periods described in section 88D(2) and (8) must not be excluded from the time limits in section 95.

88C Excluded time periods relating to provision of further information

- (1) Subsection (2) applies when—
- (a) an authority has requested an applicant, under section 92(1), to provide further information on the applicant's application; and
 - (b) the request is the first request made by the authority to the applicant under that provision—
 - (i) at all; or
 - (ii) after the closing date for submissions.
- (2) The period that must be excluded from every applicable provision listed in section 88B(2) is the period—
- (a) starting with the date of the request under section 92(1); and
 - (b) ending as follows:
 - (i) if the applicant provides the information within 15 working days, the date on which the applicant provides the information;
 - (ii) if the applicant agrees within 15 working days to provide the information and provides the information, the date on which the applicant provides the information;
 - (iii) if the applicant agrees within 15 working days to provide the information and does not provide the information, the date set under section 92A(2)(a);
 - (iv) if the applicant does not respond to the request within 15 working days, the date on which the period of 15 working days ends;
 - (v) if the applicant refuses within 15 working days to provide the information, the date on which the applicant refuses to provide the information.
- (3) Subsection (4) applies when—

- (a) an authority has notified an applicant, under section 92(2)(b), of its wish to commission a report; and
 - (b) the applicant agrees, under section 92B(1), to the commissioning of the report.
- (4) The period that must be excluded from every applicable provision listed in section 88B(2) is the period—
- (a) starting with the date of the notification under section 92(2)(b); and
 - (b) ending with the date on which the authority receives the report.
- (5) Subsection (6) applies when—
- (a) an authority has notified an applicant, under section 92(2)(b), of its wish to commission a report; and
 - (b) the applicant does not agree, under section 92B(1), to the commissioning of the report.
- (6) The period that must be excluded from every applicable provision listed in section 88B(2) is the period—
- (a) starting with the date of the notification under section 92(2)(b); and
 - (b) ending with the earlier of the following:
 - (i) the date on which the period of 15 working days ends; and
 - (ii) the date on which the authority receives the applicant's refusal, under section 92B(1), to agree to the commissioning of the report.

88D Excluded time periods relating to direct referral (for resource consents and also for notices of requirement)

- (1) Subsection (2) applies when an applicant makes a request under section 87D(1).
- (2) The period that must be excluded from every applicable provision listed in section 88B(2) (except section 88B(2)(a)) is the period—
- (a) starting with the date on which the consent authority receives the request; and
 - (b) ending with the earliest of the following:
 - (i) if section 87E(5) applies, the date on which the 15 working days end;
 - (ii) if section 87E(6) applies, the date on which the 15 working days end;
 - (iii) the date on which the authority gives the applicant the authority's decision on the request.
- (3) Subsection (4) applies when an applicant objects to a consent authority against the authority's decision not to grant the applicant's request under section 87D.

- (4) The period that must be excluded from every applicable provision listed in section 88B(2) is the period—
 - (a) starting with the date on which the consent authority receives the objection; and
 - (b) ending with the date on which the authority notifies the applicant of its decision on the objection.
- (5) Subsection (6) applies when an applicant receives a report provided under section 87F(5)(a).
- (6) The period that must be excluded from every applicable provision listed in section 88B(2) is the period—
 - (a) starting with the date on which the consent authority provides the report; and
 - (b) ending with the earlier of the following:
 - (i) the date on which the 10 working days referred to in section 87G(2)(a) end; and
 - (ii) the date on which the applicant notifies the authority, in writing or electronically, that the applicant does not intend to lodge a notice of motion under section 87G(2)(a) (if the applicant chooses to notify the authority of this).
- (7) Subsection (8) applies when a requiring authority or heritage protection authority makes a request under section 198B(1).
- (8) The period that must be excluded from every applicable provision listed in section 88B(2) (except section 88B(2)(a)) is the period—
 - (a) starting with the date on which the territorial authority receives the request; and
 - (b) ending with the earliest of the following:
 - (i) if section 198C(4) applies, the date on which the 15 working days end;
 - (ii) if section 198C(5) applies, the date on which the 15 working days end;
 - (iii) the date on which the authority gives the requiring authority or heritage protection authority the authority's decision on the request.
- (9) Subsection (10) applies when a requiring authority or heritage protection authority objects to a territorial authority against the authority's decision not to grant the requiring authority's or heritage protection authority's request under section 198B(1).
- (10) The period that must be excluded from every applicable provision listed in section 88B(2) is the period—

- (a) starting with the date on which the territorial authority receives the objection; and
 - (b) ending with the date on which the authority notifies the requiring authority or heritage protection authority of its decision on the objection.
- (11) Subsection (12) applies when a requiring authority or heritage protection authority receives a report provided under section 198D(5)(a).
- (12) The period that must be excluded from every applicable provision listed in section 88B(2) is the period—
- (a) starting with the date on which the territorial authority provides the report; and
 - (b) ending with the earlier of the following:
 - (i) the date on which the 10 working days referred to in section 198E(2)(a) end; and
 - (ii) the date on which the requiring authority or heritage protection authority notifies the territorial authority, in writing or electronically, that the requiring authority or heritage protection authority does not intend to lodge a notice of motion under section 198E(2)(a) (if the requiring authority or heritage protection authority chooses to notify the territorial authority of this).
- (13) Subsection (14) applies when a territorial authority provides a report under section 198J(4).
- (14) The period that must be excluded from every applicable provision listed in section 88B(2) is the period—
- (a) starting with the date on which the territorial authority provides the report; and
 - (b) ending with the earlier of the following:
 - (i) the date on which the 10 working days referred to in section 198K(1)(a) end; and
 - (ii) the date on which the territorial authority decides not to lodge a notice of motion under section 198K(1)(a) (if it decides this).

88E Excluded time periods relating to other matters

- (1) Subsection (2) applies when a consent authority determines, under section 91(1), not to proceed with the notification or hearing of an application for a resource consent.
- (2) The period that must be excluded from every applicable provision listed in section 88B(2) is the period—
 - (a) starting with the date of the notification of the determination to the applicant under section 91(2); and
 - (b) ending with—

- (i) the date of the receipt of applications for the resource consents that the authority considers, under section 91(1)(b), should be applied for; or
 - (ii) the date of an Environment Court order revoking the authority's determination.
- (3) Subsection (4) applies when an applicant tries, for the purposes of sections 95E(3) and 95F, to obtain the approval of persons who may be adversely affected.
- (4) The period that must be excluded from every applicable provision listed in section 88B(2) is the time taken by the applicant in trying to obtain the approvals, whether or not they are obtained.
- (5) Subsection (6) applies when a consent authority refers persons to mediation under section 99A.
- (6) The period that must be excluded from every applicable provision listed in section 88B(2) is the period—
 - (a) starting with the date of the reference; and
 - (b) ending with the earlier of the following:
 - (i) the date on which one of the persons referred to mediation gives the other persons referred and the mediator a written notice withdrawing the person's consent to the mediation; and
 - (ii) the date on which the mediator reports the outcome of the mediation to the authority.

72 New section 89A inserted

The following section is inserted after section 89:

89A Applications affecting navigation to be referred to Maritime New Zealand

- (1) This section applies to the following applications:
 - (a) an application for a coastal permit to do any of the following in the coastal marine area:
 - (i) reclaim land:
 - (ii) build a structure:
 - (iii) do or maintain works for the improvement, management, protection, or utilisation of a harbour:
 - (b) an application for a coastal permit to remove boulders, mud, sand, shell, shingle, silt, stone, or other similar material from the coastal marine area:
 - (c) an application for a land use consent to enter onto or pass across the surface of water in a navigable lake or river:

- (d) an application for a land use consent to use the bed of a navigable lake or river.
- (2) The local authority must send a copy of the application to Maritime New Zealand.
- (3) Maritime New Zealand must report to the local authority on any navigation-related matters that Maritime New Zealand considers relevant to the application, including any conditions that it considers should be included in the consent for navigation-related purposes.
- (4) If Maritime New Zealand wants to report, it must do so within 15 working days after receiving a copy of the application. If it fails to report within that time limit, the local authority may take the failure as an indication that Maritime New Zealand has nothing to report.
- (5) The local authority must—
 - (a) ensure that a copy of Maritime New Zealand’s report is provided to—
 - (i) the applicant; and
 - (ii) every person who has made a submission on the application;
 - (b) take the report into account in its consideration of the application.

73 Further information, or agreement, may be requested

- (1) Section 92 is amended by inserting the following subsection after subsection (3A):
 - (3B) The consent authority must, as soon as is reasonably practicable after receiving the information or report, give written or electronic notice to every person who made a submission on the application that the information or report is available at the authority’s office.
- (2) Section 92(5) is repealed.

74 Responses to request

Section 92A(3) to (6) are repealed and the following subsection substituted:

- (3) The consent authority must consider the application under section 104 even if the applicant—
 - (a) does not respond to the request; or
 - (b) agrees to provide the information under subsection (1)(b) but does not do so; or
 - (c) refuses to provide the information under subsection (1)(c).

75 Responses to notification

Section 92B is amended by repealing subsections (2) to (5) and substituting the following subsection:

- (2) The consent authority must consider the application under section 104 even if the applicant—
- (a) does not respond in accordance with subsection (1); or
 - (b) refuses to agree to the commissioning of the report.

76 New heading and sections 93 to 95F substituted

Sections 93 to 95 are repealed and the following heading and sections substituted:

Public notification and limited notification of applications

95 Time limit for public notification or limited notification

A consent authority must, within 10 working days after the day an application for a resource consent is first lodged,—

- (a) decide whether to give public or limited notification of the application; and
- (b) notify the application if it decides to do so.

95A Public notification of consent application at consent authority's discretion

- (1) A consent authority may, in its discretion, decide whether to publicly notify an application for a resource consent for an activity.
- (2) Despite subsection (1), a consent authority must publicly notify the application if—
 - (a) it decides (under section 95D) that the activity will have or is likely to have adverse effects on the environment that are more than minor; or
 - (b) the applicant requests public notification of the application; or
 - (c) a rule or national environmental standard requires public notification of the application.
- (3) Despite subsections (1) and (2)(a), a consent authority must not publicly notify the application if—
 - (a) a rule or national environmental standard precludes public notification of the application; and
 - (b) subsection (2)(b) does not apply.
- (4) Despite subsection (3), a consent authority may publicly notify an application if it decides that special circumstances exist in relation to the application.

95B Limited notification of consent application

- (1) If a consent authority does not publicly notify an application for a resource consent for an activity, it must decide (under sections 95E and 95F) if there are any affected persons or affected order holders in relation to the activity.

- (2) The consent authority must give limited notification of the application to any affected person unless a rule or national environmental standard precludes limited notification of the application.
- (3) The consent authority must give limited notification of the application to any affected order holder even if a rule or national environmental standard precludes public or limited notification of the application.

95C Public notification of consent application after request for further information or report

- (1) Despite section 95A(1), a consent authority must publicly notify an application for a resource consent if—
 - (a) it has not already decided whether to give public or limited notification of the application; and
 - (b) subsection (2) or (3) applies.
- (2) This subsection applies if the consent authority requests further information on the application under section 92(1), but the applicant—
 - (a) does not provide the information before the deadline concerned; or
 - (b) refuses to provide the information.
- (3) This subsection applies if the consent authority notifies the applicant under section 92(2)(b) that it wants to commission a report, but the applicant—
 - (a) does not respond before the deadline concerned; or
 - (b) refuses to agree to the commissioning of the report.
- (4) This section applies despite any rule or national environmental standard that precludes public or limited notification of the application.

95D Consent authority decides if adverse effects likely to be more than minor

A consent authority that is deciding, for the purpose of section 95A(2)(a), whether an activity will have or is likely to have adverse effects on the environment that are more than minor—

- (a) must disregard any effects on persons who own or occupy—
 - (i) the land in, on, or over which the activity will occur; or
 - (ii) any land adjacent to that land; and
- (b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and
- (c) in the case of a controlled or restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and
- (d) must disregard trade competition and the effects of trade competition; and

- (e) must disregard any effect on a person who has given written approval to the relevant application.

95E Consent authority decides if person is affected person

- (1) A consent authority must decide that a person is an affected person, in relation to an activity, if the activity's adverse effects on the person are minor or more than minor (but are not less than minor).
- (2) The consent authority, in making its decision,—
 - (a) may disregard an adverse effect of the activity on the person if a rule or national environmental standard permits an activity with that effect; and
 - (b) in the case of a controlled or restricted discretionary activity, must disregard an adverse effect of the activity on the person that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and
 - (c) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.
- (3) Despite anything else in this section, the consent authority must decide that a person is not an affected person if—
 - (a) the person has given written approval to the activity and has not withdrawn the approval in a written notice received by the authority before the authority has decided whether there are any affected persons; or
 - (b) it is unreasonable in the circumstances to seek the person's written approval.

95F Consent authority decides if person is affected order holder

A consent authority must decide that a person is an affected order holder, in relation to an activity, if—

- (a) the person is the holder of a customary rights order; and
- (b) the activity may have any adverse effects on a recognised customary activity carried out under the order in accordance with section 17A(2); and
- (c) the person has not given written approval to the activity or has withdrawn approval to the activity in a written notice received by the authority before the authority has decided whether there are any affected order holders.

77 New section 96 substituted

Section 96 is repealed and the following section substituted:

96 Making submissions

- (1) If an application for a resource consent is publicly notified, a person described in subsection (2) may make a submission about it to the consent authority.

- (2) Any person may make a submission, but the person's right to make a submission is limited by section 308B if the person is a person A as defined in section 308A and the applicant is a person B as defined in section 308A.
- (3) If an application for a resource consent is the subject of limited notification, a person described in subsection (4) may make a submission about it to the consent authority.
- (4) A person served with notice of the application may make a submission, but the person's right to make a submission is limited by section 308B if the person is a person A as defined in section 308A and the applicant is a person B as defined in section 308A.
- (5) A submission must be in the prescribed form.
- (6) A submission must be served—
 - (a) on the consent authority within the time allowed by section 97; and
 - (b) on the applicant as soon as is reasonably practicable after service on the consent authority.
- (7) A submission may state whether—
 - (a) it supports the application; or
 - (b) it opposes the application; or
 - (c) it is neutral.

78 New section 100A inserted

The following section is inserted after section 100:

100A Hearing by commissioner if requested by applicant or submitter

- (1) This section applies in relation to an application for a resource consent if—
 - (a) the application is notified; and
 - (b) in accordance with section 100, a hearing of the application is to be held.
- (2) The applicant, or a person who makes a submission on the application, may request in writing that a local authority delegate its functions, powers, and duties required to hear and decide the application in accordance with subsection (4).
- (3) The request must be made no later than 5 working days after the closing date for submissions on the application.
- (4) If the local authority receives a request under subsection (2), it must delegate, under section 34A(1), its functions, powers, and duties required to hear and decide the application to 1 or more hearings commissioners who are not members of the local authority.

79 Hearing date and notice

Section 101(2) and (2A) are repealed and the following subsection is substituted:

- (2) The date for the commencement of the hearing is as follows:
- (a) if section 87I, 198G, or 198M applies, the date must be no more than 15 working days after the date on which the authority knows that the section applies;
 - (b) if none of sections 87I, 198G, and 198M applies and the application was not notified, the date must be within 25 working days after the date the application was first lodged with the authority;
 - (c) if none of sections 87I, 198G, and 198M applies and the application was notified, the date must be within 25 working days after the closing date for submissions on the application.

80 Joint hearings by 2 or more consent authorities

Section 102 is amended by adding the following subsection:

- (7) If a consent authority delegates its functions, powers, and duties in relation to a matter to 1 or more hearings commissioners in accordance with section 100A, and a joint hearing under this section includes the matter, then those commissioners must represent the consent authority in the joint hearing in relation to the matter.

81 Combined hearings in respect of 2 or more applications

Section 103 is amended by adding the following subsection:

- (3) If a consent authority delegates its functions, powers, and duties in relation to a matter to 1 or more hearings commissioners in accordance with section 100A, and the matter is to be heard and decided together with other matters under this section, then all of the matters must be heard and decided by those commissioners.

82 New section 103A inserted

The following section is inserted after section 103:

103A Time limit for completion of adjourned hearing

- (1) Subsection (2) applies to a hearing of an application for a resource consent if—
- (a) the hearing is adjourned; and
 - (b) the adjournment takes effect after the applicant's right of reply has been exercised.
- (2) The hearing must be concluded no later than 10 working days after the right of reply has been exercised (whether exercised orally or in writing).

83 Consideration of applications

- (1) Section 104(1)(b) is repealed and the following paragraph substituted:
- (b) any relevant provisions of—
 - (i) a national environmental standard:

- (ii) other regulations:
 - (iii) a national policy statement:
 - (iv) a New Zealand coastal policy statement:
 - (v) a regional policy statement or proposed regional policy statement:
 - (vi) a plan or proposed plan; and
- (2) Section 104(2) is amended by inserting “a national environmental standard or” after “if”.
- (3) Section 104(3) is amended by omitting “not” and substituting “not,”.
- (4) Section 104(3)(a) and (b) are repealed and the following paragraph substituted:
- (a) when considering an application, have regard to—
 - (i) trade competition or the effects of trade competition; or
 - (ii) any effect on a person who has given written approval to the application:
- (5) Section 104(4) is repealed and the following subsection substituted:
- (4) A consent authority considering an application must ignore subsection (3)(a)(ii) if the person withdraws the approval in a written notice received by the consent authority before the date of the hearing, if there is one, or, if there is not, before the application is determined.
- (6) Section 104 is amended by adding the following subsections:
- (6) A consent authority may decline an application for a resource consent on the grounds that it has inadequate information to determine the application.
- (7) In making an assessment on the adequacy of the information, the consent authority must have regard to whether any request made of the applicant for further information or reports resulted in further information or any report being available.

84 Determination of applications for controlled activities

Section 104A(b) is repealed and the following paragraph substituted:

- (b) may impose conditions on the consent under section 108 only for those matters—
 - (i) over which control is reserved in national environmental standards or other regulations; or
 - (ii) over which it has reserved its control in its plan or proposed plan.

85 New section 104C substituted

Section 104C is repealed and the following section substituted:

104C Determination of applications for restricted discretionary activities

- (1) When considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which—
 - (a) a discretion is restricted in national environmental standards or other regulations:
 - (b) it has restricted the exercise of its discretion in its plan or proposed plan.
- (2) The consent authority may grant or refuse the application.
- (3) However, if it grants the application, the consent authority may impose conditions under section 108 only for those matters over which—
 - (a) a discretion is restricted in national environmental standards or other regulations:
 - (b) it has restricted the exercise of its discretion in its plan or proposed plan.

86 Decisions on applications to be in writing, etc

- (1) Section 113(1) is amended by inserting “that is notified” after “for a resource consent”.
- (2) Section 113(1)(ab)(i) is repealed and the following subparagraphs are substituted:
 - (i) a national environmental standard:
 - (ia) a national policy statement:
- (3) Section 113(1)(ae) is amended by omitting “of fact” and substituting “on the principal issues that were in contention”.
- (4) Section 113 is amended by adding the following subsections:
 - (3) A decision prepared under subsection (1) may,—
 - (a) instead of repeating material, cross-refer to all or a part of—
 - (i) the assessment of environmental effects provided by the applicant concerned:
 - (ii) any report prepared under section 41C, 42A, or 92; or
 - (b) adopt all or a part of the assessment or report, and cross-refer to the material accordingly.
 - (4) Every decision on an application for a resource consent that is not notified must be in writing and state the reasons for the decision.

87 New section 115 substituted

Section 115 is repealed and the following section substituted:

115 Time limits for notification of decision

- (1) Notice of a decision on an application for a resource consent must be given under section 114 within the time limits in this section.
- (2) If a hearing is held, notice of the decision must be given within 15 working days after the end of the hearing.
- (3) If the application was not notified and a hearing is not held, notice of the decision must be given within 20 working days after the date the application was first lodged with the authority.
- (4) If the application was notified and a hearing is not held, notice of the decision must be given within 20 working days after the closing date for submissions on the application.
- (5) However, if section 87I applies and a hearing is not held, the notice must be given within 10 working days after the date on which the authority knows that the section applies.

88 When resource consent commences

- (1) Section 116(1) is amended by omitting “and (3)” and substituting “(4), and (5)”.
- (2) Section 116(1A) is amended by omitting “shall commence” and substituting “commences”.
- (3) Section 116(3) is repealed.
- (4) Section 116 is amended by adding the following subsections:
 - (4) Where the Environment Court grants a resource consent under section 87G or 149U, the consent commences on the date of the decision or such later date as the Court states in its decision.
 - (5) Where a board of inquiry grants a resource consent under section 149R, the consent commences on the date of the decision or such later date as the board states in its decision.

89 New section 117 substituted

Section 117 is repealed and the following section substituted:

117 Application to carry out restricted coastal activity

- (1) An application for a coastal permit to carry out an activity that a regional coastal plan describes as a restricted coastal activity must be made to the regional council for the region concerned, except if the application is made to the EPA under section 145.
- (2) The regional council is the consent authority in relation to the application for the coastal permit.

- (3) Any provisions of this Act that apply in relation to an application for a resource consent apply in relation to the application for the coastal permit, except as provided in this section.
- (4) The consent authority must, after receiving the application, promptly provide a copy of it to the Minister of Conservation and the relevant territorial authority.
- (5) The consent authority must publicly notify the application.
- (6) Section 100A does not apply in relation to the application for the coastal permit.
- (7) The consent authority must delegate, under section 34A, its functions, powers, and duties required to hear and decide the application to 1 or more persons permitted by section 34A(1), including 1 person nominated by the Minister of Conservation.
- (8) The consent authority must ensure that a notice of its decision on the application is served on the Minister of Conservation under section 114.

90 Sections 118 and 119 repealed

Sections 118 and 119 are repealed.

91 New section 119A substituted

Section 119A is repealed and the following section substituted:

119A Coastal permit for restricted coastal activity treated as if granted by regional council

- (1) Subsection (3) applies to a coastal permit for a restricted coastal activity granted at any time by the Minister of Conservation for a coastal marine area within the region of a regional council.
- (2) If subsection (3) applies to a coastal permit, it applies on and from the later of—
 - (a) 1 October 2009; or
 - (b) the date that the coastal permit is granted.
- (3) The coastal permit is to be treated as if—
 - (a) it were granted by the regional council; and
 - (b) the regional council were the consent authority in relation to the coastal permit on and from the date it was granted.

92 Right to appeal

- (1) Section 120(1) is amended by omitting “, except a decision of the Minister of Conservation under section 119,”.
- (2) Section 120(1) is amended by adding the following paragraph:
 - (c) in relation to a coastal permit for a restricted coastal activity, the Minister of Conservation.

93 Procedure for appeal

Section 121(3) is repealed.

94 Circumstances when consent conditions can be reviewed

Section 128 is amended by adding the following subsection:

- (2) A consent authority must, in accordance with section 129, serve notice on a consent holder of its intention to review the conditions of a resource consent if required by an order made under section 339(5)(b).

95 Notice of review

Section 129(1)(c) is amended by inserting “or (2)” after “(ba)”.

96 Public notification, submissions, and hearing, etc

- (1) Section 130(2) is repealed and the following subsection substituted:
- (2) Sections 96 to 102 and section 117(4), (6), (7), and (8), with all necessary modifications, apply to the review of a coastal permit granted in respect of a restricted coastal activity as if—
 - (a) the notice of review under section 129 were an application for a resource consent; and
 - (b) the consent holder were the applicant for a resource consent.
- (2) Section 130(6) is amended by omitting “the hearing committee shall only hear from” and substituting “the only persons who may be heard in relation to the matter are”.

97 Matters to be considered in review

- (1) Section 131(1) is amended by omitting “or hearing committee set up under section 117 in respect of a permit for a restricted coastal activity”.
- (2) Section 131(1) is also amended by inserting the following paragraph after paragraph (a):
 - (aa) in the case of a review under section 128(2), must have regard to any reasons that the court provided for making the order requiring the review; and

98 Decisions on review of consent conditions

- (1) Section 132(2) is amended by omitting “(other than a review initiated by the Minister of Conservation)”.
- (2) Section 132(3) and (4) are repealed and the following subsections substituted:
- (3) A consent authority may cancel a resource consent if—
 - (a) it reviews the consent under section 128(1)(c); and

- (b) the application for the consent contained inaccuracies that the consent authority considers materially influenced the decision made on the application; and
 - (c) there are significant adverse effects on the environment resulting from the exercise of the consent.
- (4) A consent authority may also cancel a resource consent if—
- (a) it reviews the consent under section 128(2); and
 - (b) there are significant adverse effects on the environment resulting from the exercise of the consent.

99 New section 139 substituted

Section 139 is repealed and the following section substituted:

139 Consent authorities and Environmental Protection Authority to issue certificates of compliance

- (1) This section applies if an activity could be done lawfully in a particular location without a resource consent.
- (2) A person may request the consent authority to issue a certificate of compliance.
- (3) A certificate states that the activity can be done lawfully in a particular location without a resource consent.
- (4) The authority may require the person to provide further information if the authority considers that the information is necessary for the purpose of applying subsection (5).
- (5) The authority must issue the certificate if—
 - (a) the activity can be done lawfully in the particular location without a resource consent; and
 - (b) the person pays the appropriate administrative charge.
- (6) The authority must issue the certificate within 20 working days of the later of the following:
 - (a) the date on which it received the request;
 - (b) the date on which it received the further information under subsection (4).
- (7) The certificate issued to the person must—
 - (a) describe the activity and the location; and
 - (b) state that the activity can be done lawfully in the particular location without a resource consent as at the date on which the authority received the request.
- (8) The authority must not issue a certificate if—
 - (a) the request for a certificate is made after a proposed plan is notified; and

- (b) the activity could not be done lawfully in the particular location without a resource consent under the proposed plan.
- (9) Sections 357A and 357C to 358 apply to a request for a certificate.
- (10) A certificate is treated as if it were an appropriate resource consent that—
 - (a) contains the conditions specified in an applicable national environmental standard; and
 - (b) contains the conditions specified in an applicable plan.
- (11) A certificate treated as a resource consent is subject to sections 10, 10A, and 20A(2).
- (12) A certificate treated as a resource consent is subject to this Act as if it were a resource consent, except that the only sections in this Part that apply to it are sections 120, 121, 122, 125, 134, 135, 136, and 137.
- (13) If an activity relates to a matter that is or is part of a proposal of national significance for which a direction has been made under section 142(2) or 147(1)(a) or (b), a person may request a certificate from the Environmental Protection Authority and this section applies with the following modifications:
 - (a) a reference to a consent authority is to be treated as a reference to the EPA; and
 - (b) subsection (5)(b) does not apply; and
 - (c) the EPA may recover its actual and reasonable costs of dealing with the request from the person making the request.
- (14) In this section, **activity** includes a particular proposal.

100 New Part 6AA substituted

Sections 140 to 150AA and the heading before section 140 are repealed and the following Part is substituted:

Part 6AA
Proposals of national significance

140 Outline of this Part

- (1) This section sets out the general scheme and effect of this Part. This section is by way of explanation only and does not limit or affect the other provisions of this Part or this Act.
- (2) This Part provides the Minister with specific powers in relation to applications for resource consents, applications for changes to or cancellation of resource consent conditions, local authority plan changes or variations, requests for plan changes, requests for the preparation of regional plans, and notices of requirement that are or are part of a proposal of national significance.

- (3) If exercised by the Minister, these powers set in motion 1 of 2 procedures by which the application, change, variation, request, or notice (**the matter**) is decided. Instead of the normal procedures set out in the Act, either a board of inquiry or the Environment Court decides the matter. A decision by a board of inquiry or the Environment Court may be challenged only by an appeal to the High Court on a question of law. If that decision is challenged, a further appeal may be taken to the Supreme Court or the Court of Appeal on a question of law, but only with the leave of the Supreme Court.
- (4) There are 3 ways in which a matter may come to the Minister for his or her decision on whether to make a direction to refer a matter to a board of inquiry or the Environment Court for decision. If the matter has been lodged with a local authority, the Minister may decide to make a direction on his or her own initiative or in response to a request from the local authority or the applicant. If the matter has been lodged with the Environmental Protection Authority, the Minister may decide to make a direction after receiving a recommendation from the EPA.
- (5) If the Minister decides not to make a direction to refer a matter to a board of inquiry or the Environment Court for decision, the matter will be processed by the local authority that, in the normal course of the Act, would be responsible for dealing with it. However, the Minister may still intervene in the process, for example, by making a submission on the matter for the Crown, appointing a project co-ordinator to advise the local authority on any thing relating to the matter, or appointing an additional hearings commissioner.

141 Interpretation

In this Part, unless the context requires another meaning,—

applicant means—

- (a) the person who lodged the application, for a matter that is an application for—
- (i) a resource consent; or
 - (ii) a change to or cancellation of the conditions of a resource consent:
- (b) the person making the request, for a matter that is a request for a change to a plan—
- (i) including a request that has been accepted by a board of inquiry under section 149M or the local authority under clause 25(2)(b) of Schedule 1; but
 - (ii) excluding a request that has been adopted by the local authority:
- (c) the person making the request, for a matter that is a request for the preparation of a regional plan—

- (i) including a request that has been accepted by a board of inquiry under section 149M or the local authority under clause 25(2)(b) of Schedule 1; but
- (ii) excluding a request that has been adopted by the local authority:
- (d) the requiring authority that lodged the notice of requirement, for a matter that is a notice of requirement for a designation or to alter a designation:
- (e) the heritage protection authority that lodged the notice of requirement, for a matter that is a notice of requirement for a heritage order or to alter a heritage order:
- (f) the local authority, for a matter that is—
 - (i) a change to its plan (including a request for a change that has been adopted by the local authority); or
 - (ii) a request for the preparation of a regional plan that has been adopted by a local authority; or
 - (iii) a variation to its proposed plan

local authority means—

- (a) the consent authority that would process an application lodged under section 88 or 127 or, if an application is lodged with the EPA, the consent authority that would have been responsible for processing the application if it had been lodged under section 88 or 127, for a matter that is an application for a resource consent or for a change to or cancellation of the conditions of a resource consent:
- (b) the territorial authority responsible for the district plan or proposed district plan, for a matter that is a request for a change to a district plan, a change to a district plan, or a variation to a proposed district plan:
- (c) the regional council responsible for the regional plan or proposed regional plan, for a matter that is a request for the preparation of a regional plan, a request for a change to a regional plan, a change to a regional plan, or a variation to a proposed regional plan:
- (d) the territorial authority responsible for dealing with a notice of requirement given under Part 8 or, if a notice of requirement is lodged with the EPA, the territorial authority that would have been responsible for dealing with the notice if it had been given under Part 8, for a matter that is a notice of requirement

matter means—

- (a) an application for a resource consent; or
- (b) an application for a change to or cancellation of the conditions of a resource consent; or
- (c) a request for the preparation of a regional plan (including a request that has been accepted or adopted in whole or in part by a local authority); or

- (d) a request for a change to a plan (including a request that has been accepted or adopted in whole or in part by a local authority); or
- (e) a change to a plan; or
- (f) a variation to a proposed plan; or
- (g) a notice of requirement for a designation; or
- (h) a notice of requirement for a heritage order; or
- (i) a notice of requirement to alter a designation or a heritage order.

Subpart 1—Minister may make direction in relation to matter

Matter lodged with local authority

142 Minister may call in matter that is or is part of proposal of national significance

- (1) This section applies if a matter has been lodged with a local authority and—
 - (a) the Minister, at his or her own initiative, decides to apply this section; or
 - (b) the Minister receives a request from an applicant or a local authority to make a direction for the matter under subsection (2).
- (2) If the Minister considers that a matter is or is part of a proposal of national significance, the Minister may call in the matter by making a direction to—
 - (a) refer the matter to a board of inquiry for decision; or
 - (b) refer the matter to the Environment Court for decision.
- (3) In deciding whether a matter is or is part of a proposal of national significance, the Minister may have regard to any relevant factor, including whether the matter—
 - (a) has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment); or
 - (b) involves or is likely to involve significant use of natural and physical resources; or
 - (c) affects or is likely to affect a structure, feature, place, or area of national significance; or
 - (d) affects or is likely to affect or is relevant to New Zealand's international obligations to the global environment; or
 - (e) results or is likely to result in or contribute to significant or irreversible changes to the environment (including the global environment); or
 - (f) involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment; or
 - (g) is or is likely to be significant in terms of section 8; or

- (h) will assist the Crown in fulfilling its public health, welfare, security, or safety obligations or functions; or
 - (i) affects or is likely to affect more than 1 region or district; or
 - (j) relates to a network utility operation that extends or is proposed to extend to more than 1 district or region.
- (4) In deciding whether to make a direction under subsection (2), the Minister must have regard to—
- (a) the views of the applicant and the local authority; and
 - (b) the capacity of the local authority to process the matter.
- (5) A direction made under subsection (2) must—
- (a) be in writing and be signed by the Minister; and
 - (b) state the Minister's reasons for making the direction.
- (6) If a local authority or an applicant requests the Minister to call in a matter (by making a direction under subsection (2)) and the Minister decides not to do so, the EPA must give notice of the Minister's decision to the local authority and the applicant.

143 Restriction on when local authority may request call in

A local authority (whether acting as an applicant or a local authority) may not make a request to the Minister in respect of either of the following matters unless it has complied with the consultation provisions in clauses 2, 3, and, if relevant, 4 of Schedule 1 in relation to the matter:

- (a) a change to a plan proposed by the local authority under clause 2 of Schedule 1; or
- (b) a variation to a proposed plan.

144 Restriction on when Minister may call in matter

The Minister must not call in a matter (by making a direction under section 142(2))—

- (a) more than 5 working days after the close of the last day on which submissions may be made, if the local authority has notified the matter; or
- (b) after the local authority gives notice of its decision or recommendation on the matter, if the local authority has decided not to notify the matter.

Matter lodged with EPA

145 Matter lodged with EPA

- (1) A person may lodge 1 or more of the following matters with the EPA:
- (a) an application for a resource consent:

- (b) a request for the preparation of a regional plan (other than a regional coastal plan):
- (c) a request for a change to a plan.
- (2) The holder of a resource consent may lodge an application for a change to or cancellation of the conditions of the resource consent with the EPA.
- (3) A requiring authority may lodge a notice of requirement for a designation or to alter a designation with the EPA.
- (4) A heritage protection authority may lodge a notice of requirement for a heritage order or to alter a heritage order with the EPA.
- (5) If the matter is an application for a resource consent, section 88 applies, except that—
 - (a) every reference in that section to a consent authority must be read as a reference to the EPA; and
 - (b) the applicant has no right of objection under section 88(5) if the EPA determines that the application is incomplete under section 88(3).
- (6) If the matter is an application for a change to or cancellation of the conditions of a resource consent,—
 - (a) section 127(1) applies, except that every reference in that section to a consent authority must be read as a reference to the EPA; and
 - (b) section 88 applies, except that—
 - (i) the application must be treated as if it were an application for a resource consent for a discretionary activity; and
 - (ii) every reference in that section to a consent authority, a resource consent, and the effects of the activity must be read as a reference to the EPA, the change or cancellation of the conditions, and the effects of the change or cancellation, respectively; and
 - (iii) the applicant has no right of objection under section 88(5) if the EPA determines that the application is incomplete under section 88(3).
- (7) If the matter is a notice of requirement for a designation or to alter a designation, section 168 applies, except that every reference in that section to a territorial authority must be read as a reference to the EPA.
- (8) If the matter is a notice of requirement for a heritage order or to alter a heritage order, section 189 applies, except that every reference in that section to a territorial authority must be read as a reference to the EPA.
- (9) If the matter is a request for a change to a plan or the preparation of a regional plan, clause 22 of Schedule 1 applies, except that every reference in that clause to a local authority must be read as a reference to the EPA.

- (10) A person who lodges a matter with the EPA under subsections (1) to (4) must serve the local authority with notice of the matter and of its lodging with the EPA under this section.
- (11) A matter may not be lodged with the EPA under this section if—
 - (a) the same matter has been lodged with a local authority; and
 - (b) the applicant or the local authority has requested that the Minister call in the matter.

146 EPA to recommend course of action to Minister

- (1) No later than 20 working days after receiving a matter lodged under section 145, the EPA must recommend to the Minister that he or she make a direction under section 147(1)(a), (b), or (c).
- (2) The EPA may also recommend to the Minister that he or she exercise 1 or more of the following powers:
 - (a) if the EPA recommends that the Minister make a direction under section 147(1)(a) or (b),—
 - (i) to make a submission on the matter for the Crown;
 - (ii) to extend the 9-month period by which any board of inquiry appointed to determine the matter must report under section 149R(1) because special circumstances exist;
 - (b) if the EPA recommends that the Minister make a direction under section 147(1)(c),—
 - (i) to make a submission on the matter for the Crown;
 - (ii) to appoint a project co-ordinator for the matter to advise the local authority;
 - (iii) if there is more than 1 matter that relates to the same proposal, and more than 1 local authority, to direct the local authorities to hold a joint hearing on the matters;
 - (iv) if the local authority appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.
- (3) The EPA must serve a copy of its recommendation on the applicant and the local authority.
- (4) The 20-working day time frame specified in subsection (1) applies subject to section 149(5) and (6).

147 Minister makes direction after EPA recommendation

- (1) After the Minister receives a recommendation from the EPA under section 146, he or she may make a direction to—
 - (a) refer the matter to a board of inquiry for decision; or

- (b) refer the matter to the Environment Court for decision; or
 - (c) refer the matter to the local authority.
- (2) The Minister may make a direction under subsection (1)(a) or (b) only if he or she considers that the matter is or is part of a proposal of national significance.
- (3) The Minister must apply section 142(3) in deciding whether the matter is or is part of a proposal of national significance.
- (4) In deciding on making a direction under subsection (1), the Minister must have regard to—
- (a) the views of the applicant and the local authority; and
 - (b) the capacity of the local authority to process the matter; and
 - (c) the recommendations of the EPA.
- (5) A direction made under subsection (1) must—
- (a) be in writing and be signed by the Minister; and
 - (b) state the Minister's reasons for making the direction.
- (6) To avoid doubt, the Minister may make a direction under subsection (1) that differs from the direction recommended by the EPA under section 146(1).

General provisions for matter lodged with local authority or EPA

148 Proposals relating to coastal marine area

- (1) If a proposal of national significance relates wholly to the coastal marine area, this Part applies with the following modifications:
- (a) references to the Minister must be read as references to the Minister of Conservation; and
 - (b) sections 149Q(3)(e) and (f) and 149R(4)(e) and (f) must be read as 1 paragraph saying "the Minister of Conservation".
- (2) If a proposal of national significance relates partly to the coastal marine area, this Part applies with the following modifications:
- (a) references to the Minister must be read as references to the Minister and the Minister of Conservation; and
 - (b) sections 149Q(3)(e) and (f) and 149R(4)(e) and (f) must be read as 1 paragraph saying "the Minister and the Minister of Conservation".

149 EPA may request further information or commission report

- (1) Subsection (2) applies in relation to a matter—
- (a) that has been lodged with the EPA under section 145; or
 - (b) that the Minister has called in (by making a direction under section 142(2)) after it was lodged with the local authority.
- (2) The EPA may,—

- (a) by written notice, request an applicant to provide further information relating to the matter:
 - (b) require an EPA employee, or commission any person, to prepare a report on any issue relating to a matter (including in relation to information contained in the matter or provided under paragraph (a)).
- (3) An applicant who receives a request under subsection (2)(a) must, within 15 working days after the date of the request, do 1 of the following things:
 - (a) provide the information; or
 - (b) tell the EPA by written notice that the applicant agrees to provide the information; or
 - (c) tell the EPA by written notice that the applicant refuses to provide the information.
- (4) If the EPA receives a notice under subsection (3)(b), the EPA must—
 - (a) set a reasonable time within which the applicant must provide the information; and
 - (b) tell the applicant by written notice the date by which the applicant must provide the information.
- (5) If the EPA requests further information under subsection (2)(a) before making its recommendation to the Minister on a matter under section 146, the time frame referred to in section 146(1) (being the time within which the EPA must make its recommendation) begins on,—
 - (a) if the information is provided in accordance with this section, the day after the day on which the EPA receives the information; or
 - (b) if the EPA receives a notice of refusal under subsection (3)(c), the day after the day on which the EPA receives the notice; or
 - (c) in any other case, the day after the day on which the deadline for providing the information expires.
- (6) If the EPA requires a report under subsection (2)(b) before making its recommendation to the Minister on a matter under section 146, the time frame referred to in section 146(1) (being the time within which the EPA must make its recommendation) begins on the day after the day on which the EPA receives the report.
- (7) The EPA must make its recommendation even if the applicant—
 - (a) does not provide the information before the deadline; or
 - (b) refuses to provide the information.

How matter processed if direction made to refer matter to board of inquiry or Court

149A EPA must serve Minister's direction on local authority and applicant

As soon as practicable after the Minister makes a direction under section 142(2) or 147(1)(a) or (b), the EPA must serve the direction on—

- (a) the local authority; and
- (b) the applicant.

149B Local authority's obligations if matter called in

- (1) Subsection (2) applies to a local authority if—
 - (a) the Minister calls in a matter by making a direction under section 142(2); and
 - (b) the local authority has been served with the direction under section 149A.
- (2) The local authority must, without delay, provide the EPA with—
 - (a) the matter; and
 - (b) all information received by the local authority that relates to the matter; and
 - (c) if applicable, the submissions received by the local authority on the matter.

149C EPA must give public notice of Minister's direction

- (1) The EPA must give public notice of a direction the Minister makes under section 142(2) or 147(1)(a) or (b).
- (2) Subsection (1) does not apply if—
 - (a) the matter is a request for the preparation of a regional plan, or a request for a change to a plan, lodged with the local authority under clause 21 of Schedule 1 and, at the time the Minister makes the direction, the local authority—
 - (i) has not yet made a decision on the request under clause 25 of Schedule 1; or
 - (ii) has made a decision to accept the request, but has not yet prepared the proposed plan or change under clause 26(a) of Schedule 1; or
 - (iii) has made a decision to adopt the request, but has not yet notified the proposed plan or change under clause 5 of Schedule 1; or
 - (b) the matter is a request for the preparation of a regional plan, or a request for a change to a plan, lodged with the EPA under section 145; or
 - (c) the Minister instructs that the giving of public notice be delayed under section 149D; or

- (d) the Minister decides under section 149ZC that the application or notice to which the direction relates is not to be publicly notified.
- (3) A notice under subsection (1) must—
 - (a) state the Minister’s reasons for making the direction; and
 - (b) describe the matter to which the direction applies; and
 - (c) state where the matter, its accompanying information, and any further information may be viewed; and
 - (d) state that any person may make submissions on the matter to the EPA; and
 - (e) state the closing date for the receipt of submissions; and
 - (f) state the address for service of the EPA and the applicant (or each applicant if more than 1).
- (4) When the EPA gives public notice under subsection (1), it must also serve a copy of the notice on—
 - (a) each owner and occupier (other than an applicant) of any land to which the matter relates; and
 - (b) each owner and occupier of any land adjoining any land to which the matter relates; and
 - (c) if applicable, every person who has made a submission on the matter to the local authority.

149D Minister may instruct EPA to delay giving public notice pending application for additional consents

- (1) The Minister may instruct the EPA to delay giving public notice of a direction under section 149C in relation to a matter.
- (2) Subsection (1) applies if the Minister considers, on reasonable grounds, that—
 - (a) resource consents, or other resource consents, will also be required in respect of the proposal to which the matter relates; and
 - (b) the nature of the proposal will be better understood if applications for the resource consents, or other resource consents, are lodged before proceeding further with the matter.
- (3) The EPA must, without delay, give notice to the local authority and the applicant of the instruction under subsection (1).
- (4) The Minister may, at any time, rescind an instruction given under subsection (1) and instruct the EPA to give public notice of the direction concerned under section 149C.

149E EPA to receive submissions on matter if public notice of direction has been given

- (1) Any person (including the Minister, for the Crown) may make a submission to the EPA about a matter for which—
 - (a) the Minister has made a direction under section 142(2) or 147(1)(a) or (b); and
 - (b) public notice has been given under section 149C.
- (2) Subsection (1) applies—
 - (a) whether or not the person has already made a submission to the local authority on the matter; but
 - (b) subject to subsections (5) to (8).
- (3) A submission must be—
 - (a) in the prescribed form; and
 - (b) served—
 - (i) on the EPA, within the time allowed under subsection (9); and
 - (ii) on the applicant, as soon as practicable after service on the EPA.
- (4) A submission must state whether it supports the matter, it opposes the matter, or it is neutral.
- (5) If the person is a trade competitor of the applicant, the person may make a submission only if directly affected by an effect of the activity to which the matter relates, and the effect—
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition.
- (6) However, subsection (5) does not apply if the matter is a notice of requirement for a heritage order (or to alter a heritage order), a request for the preparation of a regional plan, a request for a change to a plan, a change to a plan, or a variation to a proposed plan.
- (7) If the matter is a change to a plan proposed by a local authority under clause 2 of Schedule 1, or a variation to a proposed plan, the person—
 - (a) must not make a submission if the person could gain an advantage in trade competition through the submission; and
 - (b) may make a submission only if directly affected by an effect of the change or variation that—
 - (i) adversely affects the environment; and
 - (ii) does not relate to trade competition or the effects of trade competition.
- (8) If the matter is a request for the preparation of a regional plan, or a request for a change to a plan, a person who is a trade competitor of the person who made

the request may make a submission only if directly affected by an effect of the proposed plan or change that—

- (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition.
- (9) The closing date for making a submission is 20 working days after the day on which public notice of the direction is given.
- (10) Any submissions on the matter received by the local authority before the matter is called in (by a direction being made under section 142(2)) must be treated as having been made to the EPA under this section.

149F EPA to receive further submissions if matter is request, change, or variation

- (1) Subsection (2) applies if the matter for which the Minister makes a direction under section 142(2) or 147(1)(a) or (b) is a request for the preparation of a regional plan, a request for a change to a plan, a change to a plan, or a variation to a proposed plan.
- (2) The EPA must produce a summary of all the submissions on the matter received under section 149E and give public notice of—
- (a) the availability of a summary of submissions on the matter; and
 - (b) where the summary and the submissions can be inspected; and
 - (c) the fact that no later than 10 working days after the day on which this public notice is given, the persons described in subsection (3) may make a further submission on the matter; and
 - (d) the date of the last day for making further submissions (as calculated under paragraph (c)); and
 - (e) the address for service of the EPA.
- (3) The following persons may make a further submission on the matter:
- (a) any person representing a relevant aspect of the public interest; and
 - (b) any person that has an interest in the request, change, or variation greater than the interest that the general public has; and
 - (c) the local authority.
- (4) However, a further submission may be only in support of or in opposition to the submissions made on a matter under section 149E.
- (5) A further submission must be in the prescribed form.
- (6) A person who makes a further submission under subsection (3) must serve a copy of it on—
- (a) the applicant; and
 - (b) the person who made the submission under section 149E to which the further submission relates.

- (7) The further submission must be served no later than 5 working days after the day on which the person provides the EPA with the further submission.

149G EPA must provide board or Court with necessary information

- (1) This section applies if a matter is referred to a board of inquiry or the Environment Court under this Part.
- (2) The EPA must provide the board of inquiry or Environment Court, as the case may be, with each of the following things as soon as is reasonably practicable after receiving it:
- (a) the matter;
 - (b) all the information received by the EPA that relates to the matter;
 - (c) the submissions received by the EPA on the matter.
- (3) The EPA must also commission the local authority to prepare a report on the key issues in relation to the matter that includes—
- (a) any relevant provisions of a national policy statement, a New Zealand coastal policy statement, a regional policy statement or proposed regional policy statement, and a plan or proposed plan; and
 - (b) a statement on whether all required resource consents in relation to the proposal to which the matter relates have been applied for; and
 - (c) if applicable, the activity status of all proposed activities in relation to the matter.
- (4) The EPA must provide a copy of the report to—
- (a) the board of inquiry or the Environment Court, as the case may be; and
 - (b) the applicant; and
 - (c) every person who made a submission on the matter.

149H Local authority may not notify further change or variation in certain circumstances

If the Minister makes a direction under section 142(2) or 147(1)(a) or (b) to refer any of the following matters to a board of inquiry or the Environment Court, the local authority must not notify a further change or variation relating to the same issue until after the board or the Court, as the case may be, has made a decision on the matter:

- (a) a matter that is a change to a plan; or
- (b) a matter that is a variation to a proposed plan; or
- (c) a matter that is a request for the preparation of a regional plan or a request for a change to a plan (including a request that has been accepted or adopted by the local authority or accepted by a board of inquiry).

149I Limitation on withdrawal of change or variation

- (1) A local authority may withdraw a change that was notified under clause 5 of Schedule 1, or a variation to a proposed plan, for which the Minister has made a direction under section 142(2) no later than 5 working days after the close of the last day on which further submissions may be made under section 149F.
- (2) An applicant may withdraw the applicant's request for a proposed regional plan, or request for a change to a plan, for which the Minister has made a direction under section 142(2) or 147(1)(a) or (b) no later than 5 working days after the close of the last day on which further submissions may be made under section 149F.

Subpart 2—How matter decided if direction made to refer matter to
board of inquiry or Court

Matter decided by board of inquiry

149J Minister to appoint board of inquiry

- (1) This section applies if the Minister makes a direction under section 142(2)(a) or 147(1)(a) to refer a matter to a board of inquiry for decision.
- (2) As soon as practicable after making the direction, the Minister must appoint a board of inquiry to decide the matter.
- (3) The Minister must appoint—
 - (a) no fewer than 3, but no more than 5, members; and
 - (b) 1 member as the chairperson, who must be a current, former, or retired Environment Judge or a retired High Court Judge.
- (4) A member of a board of inquiry is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the board.

149K How members appointed

- (1) The Minister must comply with this section when appointing a board of inquiry under section 149J.
- (2) The Minister must seek suggestions for members of the board from the local authority.
- (3) However, the Minister may appoint a person as a member of the board whether or not he or she receives a suggestion for the person under subsection (2).
- (4) In appointing members, the Minister must consider the need for the board to have available to it, from its members, knowledge, skill, and experience relating to—
 - (a) this Act; and
 - (b) the matter or type of matter that the board will be considering; and

- (c) tikanga Māori; and
- (d) the local community.

149L Conduct of inquiry

- (1) A board of inquiry appointed to determine a matter under section 149J may, in conducting its inquiry, exercise any of the powers, rights, and discretions of a consent authority under sections 92 to 92B and 99 to 100 as if—
 - (a) the matter were an application for a resource consent; and
 - (b) every reference in those sections to an application or an application for a resource consent were a reference to the matter.
- (2) If a hearing is to be held, the board must—
 - (a) fix a place and the commencement date and time for the hearing; and
 - (b) give not less than 10 working days' notice of the matters stated in paragraph (a) to—
 - (i) the applicant; and
 - (ii) every person who made a submission on the matter stating that he or she wished to be heard and who has not subsequently advised the board that he or she no longer wishes to be heard.
- (3) A hearing must be held at a place near to the area to which the matter relates.
- (4) A board of inquiry—
 - (a) must keep a full record of any hearings or proceedings;
 - (b) may permit a party to question any other party or witness;
 - (c) may permit cross-examination.

149M Process if matter is request for regional plan or change and particular circumstances apply

- (1) This section applies if the matter before a board of inquiry is a request for the preparation of a regional plan, or a request for a change to a plan, and—
 - (a) the request is lodged with the EPA under section 145; or
 - (b) the request is lodged with the local authority under clause 21 of Schedule 1 but, at the time the Minister made the direction under section 142(2) in relation to the request, the local authority had not yet made a decision on the request under clause 25 of Schedule 1.
- (2) The board may only—
 - (a) accept the request entirely under clause 25(2)(b) of Schedule 1; or
 - (b) reject the request entirely under clause 25(4) of Schedule 1.
- (3) To make a decision under subsection (2), the board—
 - (a) has all the powers of a local authority under clauses 23 and 24 of Schedule 1; and

- (b) must consult the local authority on its views before making its decision.
- (4) If the board accepts the request,—
 - (a) the board must serve notice of its decision on the applicant and the local authority; and
 - (b) the local authority must prepare the proposed plan or change in accordance with section 149N; and
 - (c) the EPA must give public notice of the proposed plan or change, invite submissions on it under section 149O, and invite further submissions on it under section 149F; and
 - (d) the board must—
 - (i) conduct an inquiry on the proposed plan or change in accordance with sections 149L and 149P(1); and
 - (ii) apply section 149P(6) or (7), as the case may be; and
 - (iii) produce a draft report on the proposed plan or change under section 149Q; and
 - (iv) produce a final report on the proposed plan or change under section 149R.
- (5) If the board rejects the request, the board must serve notice of its decision on the applicant and the local authority.

149N Process if section 149M applies or proposed plan or change not yet prepared

- (1) Subsections (2) to (4) apply if—
 - (a) a board of inquiry has accepted a request for the preparation of a regional plan, or a request for a change to a plan, under section 149M; or
 - (b) a local authority has accepted a request for the preparation of a regional plan, or a request for a change to a plan, under clause 25(2)(b) of Schedule 1 but, at the time the Minister made the direction under section 142(2) in relation to the request, the local authority had not yet prepared the proposed plan or change under clause 26(a) of Schedule 1.
- (2) The local authority must prepare the proposed plan or change in consultation with the applicant as if clause 26(a) of Schedule 1 applied.
- (3) The local authority must then serve a copy of the proposed plan or change on the EPA,—
 - (a) if the circumstances in subsection (1)(a) apply, no later than 4 months after the local authority was served with notice of the board's decision under section 149M(4);
 - (b) if the circumstances in subsection (1)(b) apply, no later than 4 months after the local authority was served with the Minister's direction under section 149A.

- (4) The local authority must also give notice to the EPA of any rules in the proposed plan or change that will have legal effect under subsection (9) on and from the date on which the EPA gives public notice of the proposed plan or change under section 149O.
- (5) Subsections (6) to (8) apply if a local authority has adopted a request for the preparation of a regional plan, or a request for a change to a plan, under clause 25(2)(a) of Schedule 1 but, at the time the Minister made the direction under section 142(2) in relation to the request, the local authority had not yet notified the proposed plan or change under clause 5 of Schedule 1.
- (6) The local authority must, no later than 4 months after the local authority was served with the Minister's direction under section 149A,—
 - (a) serve a copy of the proposed plan or change on the EPA; and
 - (b) give notice to the EPA of any rules in the proposed plan or change that will have legal effect under subsection (8) on and from the date on which the EPA gives public notice of the proposed plan or change under section 149O.
- (7) A rule in a proposed plan or change served on the EPA under subsection (6) has legal effect only once a decision is made by the board of inquiry or Court.
- (8) However, a rule has legal effect on and from the date on which the EPA gives public notice of the proposed plan or change under section 149O if the rule—
 - (a) protects or relates to water, air, or soil (for soil conservation); or
 - (b) protects areas of significant indigenous vegetation; or
 - (c) protects areas of significant habitats of indigenous fauna; or
 - (d) protects historic heritage; or
 - (e) provides for or relates to an aquaculture management area.
- (9) A rule included in a proposed plan or change served on the EPA under subsection (3) that provides for or relates to an aquaculture management area has legal effect on and from the date that public notice of the proposed plan or change is given under section 149O.

149O Public notice and submissions where EPA receives proposed plan or change from local authority under section 149N

- (1) This section applies where the EPA receives a proposed plan or change proposed by a local authority under section 149N.
- (2) On receiving a copy of the proposed plan or change, the EPA must give public notice of the proposed plan or change stating—
 - (a) the Minister's reasons for making a direction in relation to the matter; and
 - (b) where the proposed plan or change, accompanying information, and any other information may be viewed; and

- (c) any rule in the proposed plan or change that has legal effect on and from the date that public notice of the proposed plan or change is given under section 149O; and
 - (d) that submissions on the proposed plan or change may be made by any person to the EPA; and
 - (e) the closing date for receiving submissions; and
 - (f) the address for service of the EPA and the applicant.
- (3) Any person may make a submission on a proposed plan or change for which public notice is given under subsection (2) and, for that purpose, section 149E(3), (4), and (8) apply.
- (4) However, the closing date for making a submission under subsection (3) is 20 working days after the day on which public notice of the proposed plan or change is given under subsection (2).
- (5) On receiving a copy of the proposed plan or change, the EPA must also provide the board of inquiry with a copy of the proposed plan or change.
- (6) When the EPA gives public notice under subsection (2), it must also serve a copy of the notice on—
- (a) each owner and occupier (other than an applicant) of any land to which the matter relates; and
 - (b) each owner and occupier of any land adjoining any land to which the matter relates.

149P Consideration of matter by board

- (1) A board of inquiry considering a matter must—
- (a) have regard to the Minister’s reasons for making a direction in relation to the matter; and
 - (b) consider any information provided to it by the EPA under section 149G; and
 - (c) act in accordance with subsection (2), (3), (4), (5), (6), or (7), as the case may be.
- (2) A board of inquiry considering a matter that is an application for a resource consent must apply sections 104 to 112 and 138A as if it were a consent authority.
- (3) A board of inquiry considering a matter that is an application for a change to or cancellation of the conditions of a resource consent must apply sections 104 to 112 as if—
- (a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and

- (b) every reference to a resource consent and to the effects of the activity were a reference to the change or cancellation of a condition and the effects of the change or cancellation, respectively.
- (4) A board of inquiry considering a matter that is a notice of requirement for a designation or to alter a designation—
 - (a) must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority; and
 - (b) may—
 - (i) cancel the requirement; or
 - (ii) confirm the requirement; or
 - (iii) confirm the requirement, but modify it or impose conditions on it as the board thinks fit; and
 - (c) may waive the requirement for an outline plan to be submitted under section 176A.
- (5) A board of inquiry considering a matter that is a notice of requirement for a heritage order or to alter a heritage order—
 - (a) must have regard to the matters set out in section 191(1); and
 - (b) may—
 - (i) cancel the requirement; or
 - (ii) confirm the requirement; or
 - (iii) confirm the requirement, but modify it or impose conditions on it as the board thinks fit (including a condition that the heritage protection authority reimburse the owner of the place concerned for any additional costs of upkeep of the place resulting from the making or the modifying of the order).
- (6) A board of inquiry considering a matter that is a variation to a proposed regional plan, a proposed regional plan, or a change to a regional plan—
 - (a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and
 - (b) may exercise the powers under section 293 as if it were the Environment Court; and
 - (c) must apply sections 66 to 70B and 77A to 77D as if it were a regional council.
- (7) A board of inquiry considering a matter that is a change to a district plan or a variation to a proposed district plan—
 - (a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and
 - (b) may exercise the powers under section 293 as if it were the Environment Court; and

- (c) must apply sections 74 to 77D as if it were a territorial authority.

149Q Board to produce draft report

- (1) As soon as practicable after a board of inquiry has completed its inquiry on a matter, it must—
- (a) prepare a draft decision; and
 - (b) produce a draft written report.
- (2) The draft report—
- (a) must state the board's draft decision; and
 - (b) must give reasons for the decision; and
 - (c) must include a statement of the principal issues that were in contention; and
 - (d) must include the main findings on the principal issues that were in contention; and
 - (e) may recommend that changes be made to a plan, regional policy statement, national policy statement, or New Zealand coastal policy statement (being changes in addition to any changes that may result from the implementation of the draft decision); and
 - (f) may recommend that a national policy statement, a New Zealand coastal policy statement, or a national environmental standard be issued or revoked.
- (3) The EPA must provide a copy of the draft report to—
- (a) the applicant; and
 - (b) the local authority; and
 - (c) any other relevant local authorities; and
 - (d) the persons who made submissions on the matter; and
 - (e) the Minister of Conservation, if the report relates to the functions of the Minister of Conservation under this Act; and
 - (f) the Minister; and
 - (g) if the matter to which the report relates is a notice of requirement, the landowners and occupiers directly affected by the draft decision.
- (4) The EPA must invite the persons to whom it sends the draft report to send any comments on minor or technical aspects of the report to the EPA no later than 20 working days after the date of the invitation.
- (5) Comments on minor or technical aspects of the report—
- (a) include comments on minor errors in the report, on the wording of conditions specified in the report, or that there are omissions in the report (for example, the report does not address a certain issue); but

- (b) do not include comments on the board's decision or its reasons for the decision.

149R Board to produce final report

- (1) As soon as practicable after the 20 working days referred to in section 149Q(4), a board of inquiry must—
 - (a) consider any comments received by the EPA in accordance with section 149Q; and
 - (b) make its decision; and
 - (c) produce a written report.
- (2) The board must do everything under subsection (1) no later than 9 months after—
 - (a) the day on which the EPA gave public notice under section 149C of the Minister's direction under section 142(2) or 147(1)(a) in relation to the matter, unless paragraph (b) or (c) applies; or
 - (b) the day on which the EPA gave public notice under section 149O of the proposed plan or change, if that section applies to the matter before the board; or
 - (c) the day on which the EPA gave limited notification under section 149ZC(4), if the EPA gave that notice for the matter before the board.
- (3) The report—
 - (a) must state the board's decision; and
 - (b) must give reasons for the decision; and
 - (c) must include a statement of the principal issues that were in contention; and
 - (d) must include the main findings on the principal issues that were in contention; and
 - (e) may recommend that changes be made to a plan, regional policy statement, national policy statement, or New Zealand coastal policy statement (being changes in addition to any changes that may result from the implementation of the decision); and
 - (f) may recommend that a national policy statement, a New Zealand coastal policy statement, or a national environmental standard be issued or revoked.
- (4) The EPA must send a copy of the report to—
 - (a) the applicant; and
 - (b) the local authority; and
 - (c) any other relevant local authorities; and
 - (d) the persons who made submissions on the matter; and

- (e) the Minister of Conservation, if the report relates to the functions of the Minister of Conservation under this Act; and
 - (f) the Minister; and
 - (g) if the matter to which the report relates is a notice of requirement, the landowners and occupiers directly affected by the decision.
- (5) The EPA must publish the board's report and give public notice of where and how copies of it can be obtained.
- (6) Nothing in section 37(1) applies to the time periods or the requirements in this section that apply to a board.

149S Minister may extend time by which board must report

- (1) Despite section 149R(2), the Minister may, at any time (including before the board is appointed), grant an extension or extensions of time in which a board of inquiry must produce its final report.
- (2) The Minister may grant an extension only if—
- (a) he or she considers that special circumstances apply; and
 - (b) the time period as extended does not exceed 18 months from—
 - (i) the day on which the EPA gives public notice under section 149C of the Minister's direction under section 142(2) or 147(1)(a) in relation to the matter, unless subparagraph (ii) or (iii) applies; or
 - (ii) the day on which the EPA gives public notice under section 149O of the proposed plan or change, if that section applies to the matter before the board; or
 - (iii) the day on which the EPA gives limited notification under section 149ZC(4), if the EPA gives that notice for the matter before the board.
- (3) However, the Minister may grant an extension that results in a time period greater than that described in subsection (2)(b) if the applicant agrees.
- (4) The EPA must give written notice to the following persons if the Minister grants an extension under subsection (1), or each time the Minister grants an extension under subsection (1), as the case may be:
- (a) the applicant; and
 - (b) the local authority; and
 - (c) any person who made a submission on the matter.

Matter decided by Environment Court

149T Matter referred to Environment Court

- (1) This section applies if the Minister makes a direction under section 142(2)(b) or 147(1)(b) to refer a matter to the Environment Court for decision.

- (2) The matter is referred to the Environment Court by the applicant lodging with the Court—
 - (a) a notice of motion specifying the orders sought and the grounds on which the application is made; and
 - (b) a supporting affidavit on the circumstances giving rise to the application.
- (3) The applicant must—
 - (a) serve a copy of the notice of motion and the affidavit on the local authority and, if applicable, every person who made a submission on the matter; and
 - (b) serve the documents as soon as is reasonably practicable after lodging them; and
 - (c) tell the Registrar when the documents have been served.
- (4) If the matter is a change to a district plan proposed by a territorial authority under clause 2 of Schedule 1, or a variation to a proposed district plan, the applicant must also serve a copy of the notice of motion and affidavit on any requiring authority that made a requirement under clause 4 of Schedule 1 in respect of the change or variation.
- (5) The Court may at any time direct the applicant to serve a copy of the notice of motion and affidavit on any other person.
- (6) Section 274 applies to a notice of motion lodged under this section.

149U Consideration of matter by Environment Court

- (1) The Environment Court, when considering a matter referred to it under section 149T, must—
 - (a) have regard to the Minister's reasons for making a direction in relation to the matter; and
 - (b) consider any information provided to it by the EPA under section 149G; and
 - (c) act in accordance with subsection (2), (3), (4), (5), (6), or (7), as the case may be.
- (2) If considering a matter that is an application for a resource consent, the Court must apply sections 104 to 112 and 138A as if it were a consent authority.
- (3) If considering a matter that is an application for a change to or cancellation of the conditions of a resource consent, the Court must apply sections 104 to 112 as if—
 - (a) it were a consent authority and the application were an application for resource consent for a discretionary activity; and
 - (b) every reference to a resource consent and to the effects of the activity were a reference to the change or cancellation of a condition and the effects of the change or cancellation, respectively.

- (4) If considering a matter that is a notice of requirement for a designation or to alter a designation, the Court—
 - (a) must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority; and
 - (b) may—
 - (i) cancel the requirement; or
 - (ii) confirm the requirement; or
 - (iii) confirm the requirement, but modify it or impose conditions on it as the Court thinks fit; and
 - (c) may waive the requirement for an outline plan to be submitted under section 176A.
- (5) If considering a matter that is a notice of requirement for a heritage order or to alter a heritage order, the Court—
 - (a) must have regard to the matters set out in section 191(1); and
 - (b) may—
 - (i) cancel the requirement; or
 - (ii) confirm the requirement; or
 - (iii) confirm the requirement, but modify it or impose conditions on it as the Court thinks fit (including a condition that the heritage protection authority reimburse the owner of the place concerned for any additional costs of upkeep of the place resulting from the making or the modifying of the order).
- (6) If considering a matter that is a variation to a proposed regional plan, a proposed regional plan, or a change to a regional plan, the Court—
 - (a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and
 - (b) may exercise the powers under section 293; and
 - (c) must apply sections 66 to 70B and 77A to 77D as if it were a regional council.
- (7) If considering a matter that is a change to a district plan or a variation to a proposed district plan, the Court—
 - (a) must apply clause 10(1) to (3) of Schedule 1 as if it were a local authority; and
 - (b) may exercise the powers under section 293; and
 - (c) must apply sections 74 to 77D as if it were a territorial authority.
- (8) Part 11 applies to proceedings under this section, except if inconsistent with any provision of this section.

*Appeals***149V Appeal from decisions only on question of law**

- (1) A person described in section 149R(4)(a) to (f) may appeal to the High Court against a decision under section 149R(1) or 149U, but only on a question of law.
- (2) An applicant for a matter to which section 149M applies may appeal to the High Court against a decision under subsection (2)(b) of that section, but only on a question of law.
- (3) If the appeal is from a decision of a board of inquiry, sections 300 to 307 apply to the appeal subject to the following:
 - (a) every reference to the Environment Court in those sections must be read as a reference to the board of inquiry; and
 - (b) those sections must be read with any other necessary modifications; and
 - (c) the High Court Rules apply if a procedural matter is not dealt with in the sections.
- (4) If the appeal is from a decision of the Environment Court, section 299 applies to the appeal.
- (5) No appeal may be made to the Court of Appeal from a determination of the High Court under this section.
- (6) However, a party may apply to the Supreme Court for leave to bring an appeal to that court against a determination of the High Court and, for this purpose, sections 12 to 15 of the Supreme Court Act 2003 apply with any necessary modifications.
- (7) If the Supreme Court refuses to give leave for an appeal (on the grounds that exceptional circumstances have not been established under section 14 of the Supreme Court Act 2003), but considers that a further appeal from the determination of the High Court is justified, the court may remit the proposed appeal to the Court of Appeal.
- (8) No appeal may be made from any appeal determined by the Court of Appeal in accordance with subsection (7).
- (9) Despite any enactment to the contrary,—
 - (a) an application for leave for the purposes of subsection (6) must be filed no later than 10 working days after the determination of the High Court; and
 - (b) the Supreme Court or the Court of Appeal, as the case may be, must determine an application for leave, or an appeal, to which this section applies as a matter of priority and urgency.

Subpart 3—Miscellaneous provisions

Process after decision of board of inquiry or Court on certain matters

149W Local authority to implement decision of board or Court about proposed regional plan or change or variation

- (1) Subsections (2) and (3) apply to a local authority if—
 - (a) a board of inquiry or the Environment Court considers a matter that is a proposed regional plan or a change to a plan or a variation to a proposed plan; and
 - (b) the board or the Court, as the case may be, decides that changes must be made to the proposed plan, change, or variation.
- (2) As soon as practicable after receiving notice of the decision of the board or the Court under section 149R(4) or 149U, as the case may be,—
 - (a) the local authority must amend the proposed plan, change, or variation under clause 16(1) of Schedule 1, and that clause applies accordingly as if the decision were a direction of the Environment Court under section 293; and
 - (b) if the decision is in respect of a proposed regional plan, or a change or variation to a district or regional plan (other than a regional coastal plan), the local authority must—
 - (i) approve the proposed plan, change, or variation under clause 17 of Schedule 1; and
 - (ii) make the plan, change, or variation operative by giving public notice in accordance with clause 20 of Schedule 1; and
 - (c) if the decision is in respect of a change or variation to a regional coastal plan, the local authority must—
 - (i) adopt the change or variation under clause 18(1) of Schedule 1; and
 - (ii) send the plan to the Minister of Conservation for his or her approval in accordance with clause 19 of Schedule 1; and
 - (iii) following approval of the change or variation by the Minister of Conservation, make the change operative by giving public notice in accordance with clause 20 of Schedule 1.
- (3) For the purposes of subsection (2)(c)(ii), clause 19 of Schedule 1 must be read as if the reference to any direction of the Environment Court were a reference to any decision of the Environment Court or a board of inquiry.
- (4) A local authority must comply with section 175 if a board of inquiry or the Environment Court confirms a requirement under this Part.

149X Residual powers of local authority

- (1) Subsection (2) applies to a resource consent that has been granted by a board of inquiry or the Environment Court under section 149R or 149U, as the case may be.
- (2) The consent authority concerned has all the functions, duties, and powers in relation to the resource consent as if it had granted the consent itself.
- (3) Subsection (4) applies to a requirement confirmed (with or without modifications) by a board of inquiry or the Environment Court under section 149R or 149U.
- (4) The territorial authority concerned has all the functions, duties, and powers in relation to the requirement as if it had dealt with the matter itself.

Minister makes direction to refer matter to local authority

149Y EPA must refer matter to local authority if direction made by Minister

- (1) This section applies if the Minister makes a direction under section 147(1)(c) to refer a matter lodged with the EPA to the local authority.
- (2) The EPA must give notice of the Minister's direction to the local authority and the applicant.
- (3) The EPA must also—
 - (a) provide the local authority with—
 - (i) the matter; and
 - (ii) all the material received by the EPA that relates to the matter; and
 - (b) inform the local authority that it must process the matter in accordance with section 149Z.

149Z Local authority must process referred matter

- (1) A local authority must process a matter referred to it under section 149Y(3) in accordance with this section, subject to any action the Minister may take under section 149ZA.
- (2) If the matter is an application for a resource consent, the local authority must treat the application as if—
 - (a) it had been made to the local authority under section 88(1); and
 - (b) it had been lodged on the date that the local authority received notification from the EPA under section 149Y(3); and
 - (c) section 88(3) did not apply to the application.
- (3) If the matter is a notice of requirement for a designation or to alter a designation, the local authority must treat the notice as if it had been—
 - (a) given to the local authority under section 168; and

- (b) lodged on the date that the local authority received notification from the EPA under section 149Y(3).
- (4) However, if the matter is a notice of requirement for a designation, or to alter a designation, to which section 168A(1) or 181(4) applies, the local authority must instead comply with section 168A or 181 (as the case may be), with all necessary modifications, as if it had decided to issue the notice of requirement under that section on the date that the matter was referred to it under section 149Y(3).
- (5) If the matter is a notice of requirement for a heritage order or to alter a heritage order, the local authority must treat the notice as if it had been—
 - (a) given to the local authority under section 189; and
 - (b) lodged on the date that the local authority received notification from the EPA under section 149Y(3).
- (6) However, if the matter is a notice of requirement for a heritage order, or to alter a heritage order, to which section 189A(1) or 195A(5) applies, the local authority must instead comply with section 189A or 195A (as the case may be), with all necessary modifications, as if it had decided to issue the notice of requirement under that section on the date that the matter was referred to it under section 149Y(3).
- (7) If the matter is a request for the preparation of a regional plan or a change to a plan, the local authority must treat the request as if it had been—
 - (a) made to the local authority under clause 21 of Schedule 1; and
 - (b) lodged on the date that the local authority received notification from the EPA under section 149Y(3).
- (8) If the matter is an application for a change to or cancellation of the conditions of a resource consent, the local authority must treat the application as if it had been—
 - (a) made to the local authority under section 127; and
 - (b) lodged on the date that the local authority received notification from the EPA under section 149Y(3).

Minister's powers to intervene in matter

149ZA Minister's powers to intervene in matter

- (1) The Minister may intervene in a matter at any time by exercising 1 or more of the following powers in relation to the matter:
 - (a) to make a submission on the matter for the Crown;
 - (b) to appoint a project co-ordinator for the matter to advise the local authority;

- (c) if there is more than 1 matter that relates to the same proposal, and more than 1 local authority, to direct the local authorities to hold a joint hearing on the matters:
 - (d) if the local authority appoints 1 or more hearings commissioners for the matter, to appoint an additional commissioner for the matter.
- (2) In deciding whether to act under subsection (1), the Minister must consider the extent to which the matter is or is part of a proposal of national significance.
 - (3) If the Minister makes a direction under subsection (1)(c),—
 - (a) the local authorities must hold the joint hearing; and
 - (b) section 102 applies, with the necessary modifications, to the hearing.
 - (4) If the Minister appoints a hearings commissioner under subsection (1)(d), the commissioner has the same powers, functions, and duties as the commissioner or commissioners appointed by the local authority.
 - (5) To avoid doubt, if the matter has come before the Minister by way of an application lodged with the EPA, the Minister may exercise the powers under subsection (1) in relation to the matter whether or not the EPA made any recommendations about the matter to the Minister under section 146(2).

Process if related matter already subject to direction to refer to board of inquiry or Court

149ZB How EPA must deal with certain applications and notices of requirement

- (1) This section applies to a matter that is an application or notice of requirement described in subsection (2) if—
 - (a) the activity that the application or notice relates to is part of a proposal of national significance in relation to which 1 or more matters have already been subject to a direction under section 142(2) or 147(1)(a) or (b); and
 - (b) the application or notice was lodged with the EPA either—
 - (i) before the board of inquiry or Environment Court, as the case may be, has determined the matter or matters already subject to a direction under section 142(2) or 147(1)(a) or (b); or
 - (ii) after the matter or matters have been determined by the board or the Court and the matter or matters have been granted or confirmed.
- (2) The applications and notices are—
 - (a) an application for a resource consent:
 - (b) an application for a change to or cancellation of the conditions of a resource consent:
 - (c) a notice of requirement to alter a designation:

- (d) a notice of requirement to alter a heritage order.
- (3) In addition to making a recommendation to the Minister under section 146 on whether to make a direction under section 147(1)(a), (b), or (c) in relation to the application or notice, the EPA must also recommend whether the application or notice should be notified under sections 95A to 95F.

149ZC Minister to decide whether application or notice of requirement to be notified

- (1) If the Minister decides to make a direction under section 147(1)(a) or (b) for an application or notice of requirement to which section 149ZB applies, the Minister must also decide whether to notify the application or notice.
- (2) The Minister must apply sections 95A to 95F (but without the time limit specified by section 95), with all necessary modifications, in making his or her decision under subsection (1).
- (3) If the Minister decides that the application or notice is to be publicly notified, sections 149C to 149E apply.
- (4) If the Minister decides that the application or notice is not to be publicly notified, but is to be subject to limited notification, the EPA must give limited notification of the application or notice (but ignoring the time limit specified by section 95).
- (5) Any person who receives a notice under subsection (4) may make a submission to the EPA and, for that purpose, section 149E(3) to (6) apply.
- (6) However, the closing date for making a submission under subsection (5) is 20 working days after the day on which the EPA gives the notice under subsection (4).

Costs of processes under this Part

149ZD Costs of processes under this Part recoverable from applicant

- (1) A local authority may recover from an applicant the actual and reasonable costs incurred by the local authority in complying with this Part.
- (2) The EPA may recover from a person the actual and reasonable costs incurred by the EPA in providing assistance to the person prior to a matter being lodged with the EPA (whether or not the matter is subsequently lodged).
- (3) The EPA may recover from an applicant the actual and reasonable costs incurred by the EPA in exercising its functions and powers under this Part (including the costs in respect of secretarial and support services provided to a board of inquiry by the EPA).
- (4) The Minister may recover from an applicant the actual and reasonable costs incurred in relation to a board of inquiry appointed under this Part.
- (5) The local authority, EPA, or Minister must, upon request by an applicant, provide an estimate of the costs likely to be recovered under this section.

- (6) When recovering costs under this section, the local authority, EPA, or Minister must have regard to the following criteria:
- (a) the sole purpose is to recover the reasonable costs incurred in respect of the matter to which the costs relate;
 - (b) the applicant should be required to pay for costs only to the extent that the benefit of the actions of the local authority, EPA, or Minister (as the case may be) to which the costs relate is obtained by the applicant as distinct from the community as a whole;
 - (c) the extent to which any activity by the applicant reduces the cost to the local authority, EPA, or Minister (as the case may be) of carrying out any of its functions, powers, and duties.
- (7) A person may object under section 357B to a requirement to pay costs under any of subsections (1) to (4).

149ZE Remuneration, allowances, and expenses of boards of inquiry

The Fees and Travelling Allowances Act 1951 applies to a board of inquiry appointed under section 149J as follows:

- (a) the board is a statutory board within the meaning of the Act; and
- (b) a member of the board may be paid the following, out of money appropriated by Parliament for the purpose, if the Minister so directs:
 - (i) remuneration by way of fees, salary, or allowances under the Act; and
 - (ii) travelling allowances and travelling expenses under the Act for time spent travelling in the service of the board; and
- (c) the Act applies to payments under paragraph (b).

101 Publication, etc, of Order in Council

Section 154(b)(ii) is repealed.

102 Notice of requirement for designation by territorial authority

Section 168A(1) and (2) are repealed and the following subsections substituted:

- (1) This section applies if a territorial authority decides to issue a notice of requirement for a designation—
- (a) for a public work within its district and for which it has financial responsibility; or
 - (b) in respect of any land, water, subsoil, or airspace where a restriction is necessary for the safe or efficient functioning or operation of a public work.
- (1A) The territorial authority must decide whether to notify the notice of requirement under sections 95A to 95F (but without the time limit specified by section 95), which apply with all necessary modifications and as if—

- (a) a reference to a resource consent were a reference to the requirement; and
 - (b) a reference to an applicant or a consent authority were a reference to the territorial authority; and
 - (c) a reference to an application for a resource consent were a reference to the notice of requirement; and
 - (d) a reference to an activity were a reference to the designation.
- (1B) Section 168 applies to the notice of requirement with all necessary modifications.
- (2) Sections 96, 97, and 99 to 103 apply to the notice of requirement with the modifications described in subsection (1A).
- (2A) When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition.

103 New section 169 substituted

Section 169 is repealed and the following section substituted:

169 Further information, notification, submissions, and hearing for notice of requirement to territorial authority

- (1) If a territorial authority is given a notice of requirement under section 168, the territorial authority must decide whether to notify the notice under sections 95 to 95F, which apply with all necessary modifications and as if—
- (a) a reference to a resource consent were a reference to the requirement; and
 - (b) a reference to an applicant were a reference to the requiring authority; and
 - (c) a reference to an application for a resource consent were a reference to the notice of requirement; and
 - (d) a reference to a consent authority were a reference to the territorial authority; and
 - (e) a reference to an activity were a reference to the designation.
- (2) Unless the territorial authority applies section 170, sections 92 to 92B and 96 to 103 apply to the notice of requirement with all necessary modifications and—
- (a) with the modifications described in subsection (1); and
 - (b) as if a reference to a decision on the application for a resource consent were a reference to a recommendation by the territorial authority under section 171.

104 Recommendation by territorial authority

Section 171 is amended by inserting the following subsection before subsection (1):

- (1A) When considering a requirement and any submissions received, a territorial authority must not have regard to trade competition or the effects of trade competition.

105 Appeals

Section 174(4) is repealed and the following subsection substituted:

- (4) In determining an appeal, the Environment Court must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority, and may—
- (a) cancel a requirement; or
 - (b) confirm a requirement; or
 - (c) confirm a requirement, but modify it or impose conditions on it as the Court thinks fit.

106 New section 175 substituted

Section 175 is repealed and the following section substituted:

175 Designation to be provided for in district plan

- (1) Subsection (2) applies to a territorial authority if—
- (a) a requiring authority makes a decision under section 172 and one of the following applies:
 - (i) no appeal is lodged against the requiring authority's decision within the time permitted by section 174(2)(c); or
 - (ii) an appeal is lodged against the requiring authority's decision under section 174 but is withdrawn or dismissed; or
 - (iii) an appeal is lodged against the requiring authority's decision and the Environment Court confirms or modifies the requirement; or
 - (b) a board of inquiry decides to confirm a requirement with or without modifications under section 149R; or
 - (c) the Environment Court decides to confirm a requirement with or without modifications under section 149U, 198E, or 198K.
- (2) The territorial authority must, as soon as practicable and without using Schedule 1,—
- (a) include the designation in its district plan and any proposed district plan as if it were a rule in accordance with the requirement as issued or modified in accordance with this Act; and

- (b) state in its district plan and in any proposed district plan the name of the requiring authority that has the benefit of the designation.

107 Effect of designation

- (1) Section 176(1)(a) is amended by omitting “section 9(1)” and substituting “section 9(3)”.
- (2) Section 176(1)(b)(i) is amended by omitting “described in section 9(4)”.

108 Land subject to existing designation or heritage order

Section 177(1) is amended by omitting “sections 9(3)” and substituting “sections 9(2)”.

109 New section 178 substituted

Section 178 is repealed and the following section substituted:

178 Interim effect of requirements for designations

- (1) This section applies when—
 - (a) a requiring authority gives notice of a requirement for a designation to the EPA under section 145:
 - (b) a requiring authority gives notice of a requirement for a designation to a territorial authority under section 168:
 - (c) a territorial authority decides to issue a notice of requirement for a designation within its own district under section 168A:
 - (d) a requiring authority gives notice of a requirement for a modified designation under clause 4 of Schedule 1:
 - (e) a territorial authority decides to include a requirement for a designation in its proposed district plan under clause 4 of Schedule 1.
- (2) In the period that starts as described in subsection (3) and ends as described in subsection (4), no person may do anything that would prevent or hinder the public work, project, or work to which the designation relates unless the person has the prior written consent of the requiring authority.
- (3) The period starts,—
 - (a) for the purposes of subsection (1)(a), on the day on which the requiring authority gives notice under section 145:
 - (b) for the purposes of subsection (1)(b), on the day on which the requiring authority gives notice of the requirement under section 168:
 - (c) for the purposes of subsection (1)(c), on the day on which the territorial authority decides whether to notify the notice of requirement under section 168A:

- (d) for the purposes of subsection (1)(d), on the day on which the requiring authority gives notice of the requirement for the modified designation under clause 4 of Schedule 1:
 - (e) for the purposes of subsection (1)(e), on the day on which the territorial authority decides to include a requirement for a designation in its proposed district plan under clause 4 of Schedule 1.
- (4) The period ends on the earliest of the following days:
- (a) the day on which the requirement is withdrawn:
 - (b) the day on which the requirement is cancelled:
 - (c) the day on which the designation is included in the district plan.
- (5) A person who contravenes subsection (2) does not commit an offence against this Act unless the person knew, or could reasonably be expected to have known, of the existence of the requirement.
- (6) This section does not prevent an authority responsible for an earlier designation or heritage order from doing anything that is in accordance with the earlier designation or order.

110 Appeals relating to sections 176 to 178

- (1) Section 179(1) is amended by omitting “section 176(1)(b) or section 177(2) or section 178(1)” and substituting “section 176(1)(b), 177(2), or 178(2)”.
- (2) Section 179(2)(c) is amended by omitting “sections 176(1)(b), 177(2), or 178(1)” and substituting “section 176(1)(b), 177(2), or 178(2)”.

111 Transfer of rights and responsibilities for designations

Section 180(2) is amended by omitting “175(1)(e)” and substituting “175(2)(b)”.

112 New section 189A substituted

Section 189A is repealed and the following section substituted:

189A Notice of requirement for heritage order by territorial authority

- (1) This section applies if a territorial authority decides to issue a notice of requirement for a heritage order within its own district for the purposes described in section 189(1) and (2).
- (2) The territorial authority must decide whether to notify the notice of requirement under sections 95A to 95F (but without the time limit specified by section 95), which apply with all necessary modifications and as if—
- (a) a reference to a resource consent were a reference to the requirement; and
 - (b) a reference to an applicant or a consent authority were a reference to the territorial authority; and

- (c) a reference to an application for a resource consent were a reference to the notice of requirement; and
- (d) a reference to an activity were a reference to the heritage order.
- (3) Section 189 applies to the notice of requirement with all necessary modifications.
- (4) If the requirement is publicly notified, any person may make a submission about it to the territorial authority.
- (5) If the requirement is the subject of limited notification, a person notified may make a submission about it to the territorial authority.
- (6) A submission must be in the prescribed form.
- (7) A submission must be served on the territorial authority within the time allowed by section 97, which applies with all necessary modifications.
- (8) A submission may state whether—
 - (a) it supports the requirement; or
 - (b) it opposes the requirement; or
 - (c) it is neutral.
- (9) Sections 99 to 103 apply to the notice of requirement with the modifications described in subsection (2).
- (10) In considering the requirement, the territorial authority must have regard to—
 - (a) the matters set out in section 191; and
 - (b) all submissions.
- (11) The territorial authority may—
 - (a) confirm the requirement, with or without conditions; or
 - (b) modify the requirement, with or without conditions; or
 - (c) withdraw the requirement.

113 New section 190 substituted

Section 190 is repealed and the following section substituted:

190 Further information, notification, submissions, and hearing for notice of requirement to territorial authority

- (1) If a territorial authority is given a notice of requirement under section 189, the territorial authority must decide whether to notify the notice under sections 95 to 95F, which apply with all necessary modifications and as if—
 - (a) a reference to a resource consent were a reference to the requirement; and
 - (b) a reference to an applicant were a reference to the heritage protection authority; and

- (c) a reference to an application for a resource consent were a reference to the notice of requirement; and
 - (d) a reference to a consent authority were a reference to the territorial authority; and
 - (e) a reference to an activity were a reference to the heritage order.
- (2) If the requirement is publicly notified, any person may make a submission about it to the territorial authority.
- (3) If the requirement is the subject of limited notification, a person notified may make a submission about it to the territorial authority.
- (4) A submission must be in the prescribed form.
- (5) A submission must be served on the territorial authority within the time allowed by section 97, which applies with all necessary modifications, and a copy of the submission must be served on the heritage protection authority as soon as is reasonably practicable after the submission is served on the territorial authority.
- (6) A submission may state whether—
- (a) it supports the requirement; or
 - (b) it opposes the requirement; or
 - (c) it is neutral.
- (7) Sections 92 to 92B and 98 to 103 apply to the notice of requirement with all necessary modifications and—
- (a) with the modifications described in subsection (1); and
 - (b) as if a reference to a decision on the application for a resource consent were a reference to a recommendation by the territorial authority under section 191.

114 Recommendation by territorial authority

Section 191(1) is amended by omitting “supplied under section 190” and substituting “and reports with which the authority is supplied”.

115 Application of other sections

Section 192(f) is repealed.

116 Land subject to existing heritage order or designation

Section 193A(1) is amended by omitting “sections 9(3)” and substituting “sections 9(2)”.

117 New section 194 substituted

Section 194 is repealed and the following section substituted:

194 Interim effect of requirement

- (1) This section applies when—
 - (a) a heritage protection authority gives notice of a requirement for a heritage order to the EPA under section 145:
 - (b) a heritage protection authority gives notice of a requirement for a heritage order to a territorial authority under section 189:
 - (c) a territorial authority decides to issue a notice of requirement for a heritage order within its own district under section 189A:
 - (d) a territorial authority decides to include a requirement for a heritage order in its proposed district plan under clause 4 of Schedule 1.
- (2) In the period that starts as described in subsection (3) and ends as described in subsection (4), no person may do anything that would wholly or partly nullify the effect of the heritage order unless the person has the prior written consent of the heritage protection authority.
- (3) The period starts,—
 - (a) for the purposes of subsection (1)(a), on the day on which the heritage protection authority gives notice under section 145:
 - (b) for the purposes of subsection (1)(b), on the day on which the heritage protection authority gives notice of the requirement under section 189:
 - (c) for the purposes of subsection (1)(c), on the day on which the territorial authority decides whether to notify the notice of requirement under section 189A:
 - (d) for the purposes of subsection (1)(d), on the day on which the territorial authority decides to include a requirement for a heritage order in its proposed district plan under clause 4 of Schedule 1.
- (4) The period ends on the earliest of the following days:
 - (a) the day on which the requirement is withdrawn:
 - (b) the day on which the requirement is cancelled:
 - (c) the day on which the heritage order is included in the district plan.
- (5) A person who contravenes subsection (2) does not commit an offence against this Act unless the person knew, or could reasonably be expected to have known, of the existence of the requirement.

118 New section 195A inserted

The following section is inserted after section 195:

195A Alteration of heritage order

- (1) A heritage protection authority that is responsible for a heritage order may at any time give notice to the territorial authority of its requirement to alter the heritage order.

- (2) Sections 189 to 195 apply, with all necessary modifications, to a requirement to alter a heritage order as if it were a requirement for a new heritage order.
- (3) However, a territorial authority may at any time alter a heritage order in its district plan or a requirement in its proposed district plan if—
 - (a) the alteration—
 - (i) involves no more than a minor change to the effects on the environment associated with the heritage order concerned; or
 - (ii) involves only minor changes or adjustments to the boundaries of the heritage order or requirement; and
 - (b) written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and
 - (c) the territorial authority and the heritage protection authority agree with the alteration.
- (4) Sections 189 to 195 do not apply to an alteration under subsection (3).
- (5) This section applies, with all necessary modifications, to a requirement by a territorial authority to alter its own heritage order or requirement within its own district.

119 New sections 198A to 198M and heading inserted

The following heading and sections are inserted after section 198:

Streamlining decision-making on designations and heritage orders

198A Sections 198B to 198G apply to requirements under section 168 or 189

- (1) Sections 198B to 198G apply when a requiring authority or heritage protection authority wants 1 of the following requirements to be the subject of a decision by the Environment Court instead of a recommendation by a territorial authority and a decision by the requiring authority or heritage protection authority:
 - (a) a requirement for a designation under section 168 that has been notified;
 - (b) a requirement for a heritage order under section 189 that has been notified;
 - (c) a requirement under section 181 (other than a notice to which section 181(3) applies) for an alteration to a designation to which section 168 applied that has been notified;
 - (d) a requirement under section 195A (other than a notice to which section 195A(3) applies) for an alteration to a heritage order to which section 189 applied that has been notified.
- (2) If the notice of requirement is called in under section 142(2), sections 198B to 198G cease to apply to it.

198B Requiring authority or heritage protection authority's request

- (1) The requiring authority or heritage protection authority must request the relevant territorial authority to allow the requirement to be the subject of a decision by the Environment Court instead of a recommendation by the territorial authority and a decision by the requiring authority or heritage protection authority.
- (2) The requiring authority or heritage protection authority must make the request in the period—
 - (a) starting on the date on which the requiring authority or heritage protection authority gives notice under section 168 or 189; and
 - (b) ending 5 working days after the date on which the period for submissions on the requirement closes.
- (3) The requiring authority or heritage protection authority must make the request electronically or in writing on the prescribed form.

198C Territorial authority's decision on request

- (1) If the territorial authority receives the request after it has determined that the requirement will not be notified, it must return the request.
- (2) If the territorial authority receives the request before it has determined whether the requirement will be notified, it must defer its decision on the request until after it has decided whether to notify the requirement and then apply either subsection (3) or (4).
- (3) If the territorial authority decides not to notify the requirement, it must return the request.
- (4) If the territorial authority decides to notify the requirement, it must give the requiring authority or heritage protection authority its decision on the request within 15 working days after the date of the decision on notification.
- (5) In any other case, the territorial authority must give the requiring authority or heritage protection authority its decision on the request within 15 working days after receiving the request.
- (6) No submitter has a right to be heard by the territorial authority on a request.
- (7) If the territorial authority returns or declines the request, it must give the requiring authority or heritage protection authority its reasons, in writing or electronically, at the same time as it gives the authority its decision.
- (8) If the territorial authority declines the request under subsection (4) or (5), the requiring authority or heritage protection authority may object to the territorial authority under section 357.

198D Territorial authority's subsequent processing

- (1) If the territorial authority does not grant the request under section 198B, it must continue to process the requirement.

- (2) If the territorial authority decides to grant the request under section 198B, it must continue to process the requirement and must comply with subsections (3) to (5).
- (3) The territorial authority must prepare a report on the requirement within the longer of the following periods:
 - (a) the period that ends 20 working days after the date on which the period for submissions on the requirement closes;
 - (b) the period that ends 20 working days after the date on which the territorial authority decides to grant the request.
- (4) In the report, the territorial authority may—
 - (a) address issues that are set out in section 171 or 191 to the extent that they are relevant to the requirement; and
 - (b) suggest conditions that it considers should be imposed if the Environment Court confirms the requirement (with or without modifications).
- (5) As soon as is reasonably practicable after the report is prepared, the territorial authority must provide a copy to—
 - (a) the requiring authority or heritage protection authority; and
 - (b) every person who made a submission on the requirement.

198E Environment Court decides

- (1) Subsection (2) applies to a requiring authority or heritage protection authority who—
 - (a) receives a report under section 198D(5); and
 - (b) continues to want the requirement to be the subject of a decision by the Environment Court instead of a recommendation by the territorial authority and a decision by the requiring authority or heritage protection authority.
- (2) The requiring authority or heritage protection authority must,—
 - (a) within 10 working days after receiving the report, lodge with the Environment Court a notice of motion in the prescribed form specifying the orders sought and the grounds upon which the application is made, and a supporting affidavit as to the matters giving rise to the application; and
 - (b) as soon as is reasonably practicable after lodging the notice of motion, serve a copy of the notice of motion and affidavit on—
 - (i) the territorial authority that granted the requiring authority's or heritage protection authority's request under section 198B; and
 - (ii) every person who made a submission to the territorial authority on the requirement; and
 - (c) tell the Registrar of the Environment Court when the copies have been served.

- (3) A territorial authority served under subsection (2)(b)(i) must, without delay, provide the Environment Court with—
 - (a) the requirement to which the notice of motion relates; and
 - (b) the authority's report on the requirement; and
 - (c) all the submissions on the requirement that the authority received; and
 - (d) all the information and reports on the requirement that the authority was supplied with.
- (4) Section 274 applies to the notice of motion.
- (5) Part 11 applies to proceedings under this section.
- (6) If considering a matter that is a notice of requirement for a designation or to alter a designation, the Court—
 - (a) must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority; and
 - (b) may—
 - (i) cancel the requirement; or
 - (ii) confirm the requirement; or
 - (iii) confirm the requirement, but modify it or impose conditions on it as the Court thinks fit; and
 - (c) may waive the requirement for an outline plan to be submitted under section 176A.
- (7) If considering a matter that is a notice of requirement for a heritage order or to alter a heritage order, the Court—
 - (a) must have regard to the matters set out in section 191(1); and
 - (b) may—
 - (i) cancel the requirement; or
 - (ii) confirm the requirement; or
 - (iii) confirm the requirement, but modify it or impose conditions on it as the Court thinks fit (including a condition that the heritage protection authority reimburse the owner of the place concerned for any additional costs of upkeep of the place resulting from the making or the modifying of the order).

198F Residual powers of territorial authority

The territorial authority that would have dealt with the requirement had the Environment Court not done so under section 198E has all the functions, duties, and powers in relation to the designation or heritage order resulting from the requirement as if it had dealt with the requirement itself.

198G When territorial authority must deal with requirement

- (1) This section applies when—
 - (a) a requiring authority or heritage protection authority receives a report under section 198D(5); and
 - (b) either—
 - (i) the requiring authority or heritage protection authority advises the territorial authority that the requiring authority does not intend to lodge a notice of motion with the Environment Court under section 198E(2); or
 - (ii) the requiring authority or heritage protection authority does not lodge a notice of motion with the Environment Court under section 198E(2); and
 - (c) the requiring authority or heritage protection authority continues to want the requirement dealt with.
- (2) The territorial authority must deal with the requirement.

198H Sections 198I to 198M apply to requirements under section 168A or 189A

- (1) Sections 198I to 198M apply when a territorial authority makes a decision that 1 of the following requirements is to be the subject of a decision by the Environment Court instead of a decision by the territorial authority:
 - (a) a requirement for a designation under section 168A that has been notified:
 - (b) a requirement for a heritage order under section 189A that has been notified:
 - (c) a requirement under section 181 (other than a notice to which section 181(3) applies) for an alteration to a designation to which section 168A applied that has been notified:
 - (d) a requirement under section 195A (other than a notice to which section 195A(3) applies) for an alteration to a heritage order to which section 189A applied that has been notified.
- (2) If the notice of requirement is called in under section 142(2), sections 198I to 198M cease to apply to it.

198I Territorial authority's decision

- (1) The territorial authority must make its decision in the period—
 - (a) starting on the date on which the territorial authority decides to notify the requirement under section 168A(1A) or 189A(2); and
 - (b) ending 5 working days after the date on which the period for submissions on the requirement closes.

- (2) No submitter has a right to be heard by the territorial authority on a decision under section 198H.

198J Territorial authority's subsequent processing

- (1) The territorial authority must continue to process the requirement and must comply with subsections (2) to (4).
- (2) The territorial authority must prepare a report on the requirement within the longer of the following periods:
- (a) the period that ends 20 working days after the date on which the period for submissions on the requirement closes;
 - (b) the period that ends 20 working days after the date on which the territorial authority makes its decision under section 198H(1).
- (3) In the report, the territorial authority may—
- (a) address issues that are set out in section 168A(3) or 189A(10) to the extent that they are relevant to the requirement; and
 - (b) suggest conditions that it considers should be imposed if the Environment Court confirms the requirement (with or without modifications).
- (4) As soon as is reasonably practicable after the report is prepared, the territorial authority must provide a copy to every person who made a submission on the requirement.

198K Environment Court decides

- (1) If the territorial authority continues to want the requirement to be determined by the Environment Court, the authority must,—
- (a) within 10 working days after preparing the report, lodge with the Environment Court a notice of motion in the prescribed form specifying the orders sought and the grounds upon which the application is made, and a supporting affidavit as to the matters giving rise to the application; and
 - (b) as soon as is reasonably practicable after lodging the notice of motion, serve a copy of the notice of motion and affidavit on every person who made a submission to the territorial authority on the requirement; and
 - (c) tell the Registrar of the Environment Court when the copies have been served.
- (2) The territorial authority must, without delay, provide the Environment Court with—
- (a) the requirement to which the notice of motion relates; and
 - (b) the territorial authority's report on the requirement; and
 - (c) all the submissions on the requirement that the territorial authority received; and

- (d) all the information and reports on the requirement that the territorial authority was supplied with.
- (3) Section 274 applies to the notice of motion.
- (4) Part 11 applies to proceedings under this section.
- (5) If considering a matter that is a notice of requirement for a designation or to alter a designation, the Court—
 - (a) must have regard to the matters set out in section 171(1) and comply with section 171(1A) as if it were a territorial authority; and
 - (b) may—
 - (i) cancel the requirement; or
 - (ii) confirm the requirement; or
 - (iii) confirm the requirement, but modify it or impose conditions on it as the Court thinks fit; and
 - (c) may waive the requirement for an outline plan to be submitted under section 176A.
- (6) If considering a matter that is a notice of requirement for a heritage order or to alter a heritage order, the Court—
 - (a) must have regard to the matters set out in section 191(1); and
 - (b) may—
 - (i) cancel the requirement; or
 - (ii) confirm the requirement; or
 - (iii) confirm the requirement, but modify it or impose conditions on it as the Court thinks fit (including a condition that the heritage protection authority reimburse the owner of the place concerned for any additional costs of upkeep of the place resulting from the making or the modifying of the order).

198L Residual powers of territorial authority

The territorial authority that would have dealt with the requirement had the Environment Court not done so under section 198K has all the functions, duties, and powers in relation to the designation or heritage order resulting from the requirement as if it had dealt with the requirement itself.

198M When territorial authority must deal with requirement

- (1) This section applies when—
 - (a) a territorial authority prepares a report under section 198J; and
 - (b) the territorial authority does not lodge a notice of motion with the Environment Court under section 198K(1); and
 - (c) the territorial authority continues to want the requirement dealt with.

- (2) The territorial authority must deal with the requirement.

120 Special tribunal

Section 203 is amended by adding the following subsection:

- (3) A member of a special tribunal is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the tribunal.

121 Submissions to special tribunal

- (1) Section 205(2) is amended by omitting “96(2) and (4)” and substituting “96(5) and (6)”.
- (2) Section 205(2) is amended by adding “; and” and also by adding the following paragraph:
- (c) the reference in section 96(6)(a) to section 97 were a reference to subsection (7) of this section.

122 Conduct of hearing

- (1) Section 206(2) is repealed.
- (2) Section 206(3) is amended by omitting “101” and substituting “100 and 101”.

123 Territorial authority to issue consent notice

Section 221(2) is repealed and the following subsection substituted:

- (2) Every consent notice must be signed by a person authorised by the territorial authority to sign consent notices.

124 Restrictions upon deposit of survey plan

- (1) Section 224 is amended by omitting “under the Land Transfer Act 1952 or with the Registrar of Deeds for the purposes of section 11(1)(a)” and substituting “for the purposes of section 11(1)(a)(i) or (iii)”.
- (2) Section 224(f) is amended by omitting “authenticated by the territorial authority under section 252 of the Local Government Act 1974 is lodged with the District Land Registrar or Registrar of Deeds, as the case may require” and substituting “signed by a person authorised by the territorial authority to sign such certificates is lodged with the Registrar-General of Land”.

125 Consent authority approval of plan of survey of reclamation

- (1) Section 245(5) is repealed and the following subsection substituted:
- (5) A regional council (as the consent authority) approves a plan of survey by—
- (a) affixing its common seal to the plan of survey (or a copy of it); and
- (b) having its chief executive sign and date a certificate stating that—

- (i) the reclamation conforms with the resource consent and the relevant provisions of any regional plan; and
 - (ii) in respect of any condition of the resource consent that has not been complied with, a bond has been given under section 108(2)(b) or a covenant has been entered into under section 108(2)(d).
- (2) Section 245(6) is amended by omitting “subsections (5)(a)(ii) or (5)(b)(ii)” and substituting “subsection (5)(b)”.

126 Restrictions on deposit of plan of survey for reclamation

Section 246(2)(b) is amended by omitting “section 245(5)(a)(ii) or (5)(b)(ii)” and substituting “section 245(5)(b)”.

127 Appointment of Environment Judges and alternate Environment Judges

Section 250(3)(a) is amended by omitting “8” and substituting “10”.

128 Representation at proceedings

- (1) Section 274(1) and (2) are repealed and the following subsections substituted:
- (1) The following persons may be a party to any proceedings before the Environment Court:
- (a) the Minister;
 - (b) a local authority;
 - (c) the Attorney-General representing a relevant aspect of the public interest;
 - (d) a person who has an interest in the proceedings that is greater than the interest that the general public has, but the person’s right to be a party is limited by section 308C if the person is a person A as defined in section 308A and the proceedings are an appeal against a decision under this Act in favour of a person B as defined in section 308A;
 - (e) a person who made a submission to which the following apply:
 - (i) it was made about the subject matter of the proceedings; and
 - (ii) section 308B(2) and clauses 6(4) and 29(1B) of Schedule 1 were irrelevant to it;
 - (f) a person who made a submission to which the following apply:
 - (i) it was made about the subject matter of the proceedings; and
 - (ii) section 308B(2) or clause 6(4) or 29(1B) of Schedule 1 was relevant to it; and
 - (iii) it was made in compliance with whichever of section 308B(2) or clause 6(4) or 29(1B) of Schedule 1 was relevant to it.

- (2) A person described in subsection (1) may become a party to the proceedings by giving notice to the Environment Court and to all other parties within 15 working days after—
 - (a) the period for lodging a notice of appeal ends, if the proceedings are an appeal;
 - (b) the decision to hold an inquiry, if the proceedings are an inquiry;
 - (c) the proceedings are commenced, in any other case.
- (2) Section 274(3)(b) is amended by omitting “relief sought” and substituting “proceedings”.
- (3) Section 274(4B) is amended by omitting “subsection (1)(e), evidence may only be called” and substituting “subsection (1)(e) or (f), evidence may be called only”.
- (4) Section 274(6) is amended by omitting “public generally” and substituting “interest that the general public has”.

129 Section 284A repealed

Section 284A is repealed.

130 New section 285 substituted

Section 285 is repealed and the following section substituted:

285 Awarding costs

- (1) The Environment Court may order any party to proceedings before it to pay to any other party the costs and expenses (including witness expenses) incurred by the other party that the Court considers reasonable.
- (2) Subsection (1) does not apply if the Environment Court makes an order under section 308H(2).
- (3) The Environment Court may order any party to proceedings before it to pay to the Crown all or any part of the Court’s costs and expenses.
- (4) Subsection (3) does not apply if the Environment Court makes an order under section 308H(3).
- (5) In proceedings under section 87G, 149T, 198E, or 198K, the Environment Court must,—
 - (a) when deciding whether to make an order under subsection (1) or (3),—
 - (i) apply a presumption that costs under subsections (1) and (3) are not to be ordered against a person who is a party under section 274(1); and
 - (ii) apply a presumption that costs under subsection (3) are to be ordered against the applicant; and

- (b) when deciding on the amount of any order it decides to make, have regard to the fact that the proceedings are at first instance.
- (6) The Environment Court may order a party who fails to proceed with a hearing at the time the Court arranges, or who fails to give adequate notice of the abandonment of the proceedings, to pay to any other party or to the Crown any of the costs and expenses incurred by the other party or the Crown.

131 Section 289 repealed

Section 289 is repealed.

132 New section 290AA inserted

The following section is inserted after section 290:

290AA Powers of Court in regard to certain appeals under clause 14 of Schedule 1

The Environment Court, when hearing an appeal under clause 14(1) of Schedule 1 relating to a matter included in a document under section 55(2B), may consider only the question of law raised.

133 Environment Court may order change to policy statements and plans

- (1) The heading to section 293 is amended by inserting “**proposed**” after “**change to**”.
- (2) Section 293(1), (3), (4), and (5) are amended by omitting “policy statement or plan” in each place where it appears and substituting in each case “proposed policy statement or plan”.

134 Appeals to Court of Appeal

Section 308 is amended by adding the following subsection:

- (2) Subsection (1) does not apply to appeals against a determination of the High Court under section 299 if that determination related to a decision of the Environment Court under section 149U. Instead, section 149V(3) to (7) apply.

135 New Part 11A inserted

The following Part is inserted after section 308:

Part 11A

Act not to be used to oppose trade competitors

308A Identification of trade competitors and surrogates

In this Part,—

- (a) **person A** means a person who is a trade competitor of person B:
- (b) **person B** means the person of whom person A is a trade competitor:

- (c) **person C** means a person who has knowingly received, is knowingly receiving, or may knowingly receive direct or indirect help from person A to bring an appeal or be a party to an appeal against a decision under this Act in favour of person B.

308B Limit on making submissions

- (1) Subsection (2) applies when person A wants to make a submission under section 96 about an application by person B.
- (2) Person A may make the submission only if directly affected by an effect of the activity to which the application relates, that—
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition.
- (3) Failure to comply with the limits on submissions set in section 149E or 149O or clause 6(4) or 29(1B) of Schedule 1 is a contravention of this Part.

308C Limit on representation at appeals

- (1) This section applies when person A wants to be a party under section 274 to an appeal to the Environment Court against a decision under this Act in favour of person B, on the ground that person A has an interest in the proceedings that is greater than the interest that the general public has.
- (2) Person A may be a party to the appeal only if directly affected by an effect of the subject matter of the appeal that—
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition.

308D Limit on appealing under this Act

Person A must not bring an appeal, or be a party to an appeal, under this Act for any of the following purposes:

- (a) protecting person A from trade competition;
- (b) preventing person B from engaging in trade competition;
- (c) deterring person B from engaging in trade competition.

308E Prohibition on using surrogate

- (1) Person A must not directly or indirectly help person C to bring an appeal for any of the purposes in section 308D against a decision under this Act in favour of person B.
- (2) Person A must not directly or indirectly help person C to be a party to an appeal for any of the purposes in section 308D against a decision under this Act in favour of person B.

308F Surrogate must disclose status

Person C must tell the court if person C—

- (a) appears before the court as the appellant, or as a party to an appeal, against a decision under this Act in favour of person B; and
- (b) has knowingly received, is knowingly receiving, or may knowingly receive direct or indirect help from person A to bring the appeal or be a party to the appeal for any of the purposes in section 308D.

308G Declaration that Part contravened

- (1) Proceedings may be brought in the Environment Court for a declaration that person A or person C—
 - (a) contravened any of the provisions in this Part:
 - (b) aided, abetted, counselled, induced, or procured the contravention of any of the provisions in this Part:
 - (c) conspired with any other person in the contravention of any of the provisions in this Part:
 - (d) was in any other way knowingly concerned in the contravention of any of the provisions in this Part.
- (2) Any person (other than person A or person C) who was a party to an appeal against a decision under this Act in favour of person B may bring the proceedings.
- (3) The proceedings must not be commenced until the appeal against the decision under this Act in favour of person B is determined.
- (4) The proceedings must be commenced within 6 years after the contravention.
- (5) The Environment Court may make the declaration.

308H Costs orders if declaration made

- (1) This section applies if the Environment Court makes a declaration under section 308G.
- (2) The Environment Court must make an order that the party against whom it makes the declaration pay to any other party an amount for costs and expenses that the Court must calculate by—
 - (a) totalling all the costs and expenses (including witness expenses) that the other party incurred because the party against whom the declaration is made contravened the provision in this Part; and
 - (b) deducting from the total any amount for costs and expenses (including witness expenses) that the party against whom the declaration is made has paid to the other party in previous proceedings on the same matter.

- (3) The Environment Court must make an order that the party against whom it makes the declaration pay to the Crown an amount for costs and expenses that the Court must calculate by—
 - (a) totalling all the costs and expenses incurred by the Court because the party against whom the declaration is made contravened the provision in this Part; and
 - (b) deducting from the total any amount for costs and expenses that the party against whom the declaration is made has paid to the Crown in previous proceedings on the same matter.
- (4) The Court may decline to make an order under subsection (2) or (3) only if the Court considers that the order should not be made because the circumstances are exceptional. If the Court declines to make an order under subsection (2) or (3), it may make an order under section 285(1) or (3).
- (5) If the Court makes a declaration against person C, it must also make an order that person A not directly or indirectly reimburse person C for the costs and expenses that the Court has ordered person C to pay.

308I Proceedings for damages in High Court

- (1) A person who obtains a declaration under section 308G may bring proceedings for damages in the High Court against the person against whom the Environment Court made the declaration.
- (2) The proceedings must be brought in accordance with the High Court Rules.
- (3) The proceedings must be commenced within 6 years after the declaration is made.
- (4) The High Court must order the payment of damages for loss suffered by the plaintiff because of the conduct of the defendant that gave rise to the making of the declaration.

136 Appeals

- (1) Section 325(3F) is amended by inserting “legal” after “such stay has”.
- (2) Section 325(4) is repealed.

137 Power of entry for inspection

Section 332(1)(c) is amended by omitting “14(2), or 15(2)” and substituting “14(1), 15(2), and 15(2A)”.

138 Offences against this Act

Section 338(4) is amended by inserting, after “subsection (1)”, “, (1A), or (1B)”.

139 Penalties

- (1) Section 339(1) is repealed and the following subsections are substituted:

- (1) Every person who commits an offence against section 338(1), (1A), or (1B) is liable on conviction,—
- (a) in the case of a natural person, to imprisonment for a term not exceeding 2 years or a fine not exceeding \$300,000;
 - (b) in the case of a person other than a natural person, to a fine not exceeding \$600,000.
- (1A) Every person who commits an offence against section 338(1), (1A), or (1B) is also liable on conviction, if the offence is a continuing one, to a fine not exceeding \$10,000 for every day or part of a day during which the offence continues.
- (2) Section 339(5) is repealed and the following subsection substituted:
- (5) If a person is convicted of an offence against section 338, the court may, instead of or in addition to imposing a fine or a term of imprisonment, make 1 or more of the following orders:
- (a) the orders specified in section 314;
 - (b) an order requiring a consent authority to serve notice, under section 128(2), of the review of a resource consent held by the person, but only if the offence involves an act or omission that contravenes the consent.

140 Liability of principal for acts of agents

Section 340(2) and (3) are repealed and the following subsections substituted:

- (2) Despite anything in subsection (1), if proceedings are brought under that subsection, it is a good defence if—
- (a) the defendant proves,—
 - (i) in the case of a natural person (including a partner in a firm),—
 - (A) that he or she did not know, and could not reasonably be expected to have known, that the offence was to be or was being committed; or
 - (B) that he or she took all reasonable steps to prevent the commission of the offence; or
 - (ii) in the case of a person other than a natural person,—
 - (A) that neither the directors (if any) nor any person involved in the management of the defendant knew, or could reasonably be expected to have known, that the offence was to be or was being committed; or
 - (B) that the defendant took all reasonable steps to prevent the commission of the offence; and
 - (b) the defendant proves that the defendant took all reasonable steps to remedy any effects of the act or omission giving rise to the offence.

- (3) If a person other than a natural person is convicted of an offence against this Act, a director of the defendant (if any), or a person involved in the management of the defendant, is guilty of the same offence if it is proved—
- (a) that the act or omission that constituted the offence took place with his or her authority, permission, or consent; and
 - (b) that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

141 Service of documents

- (1) Section 352(1)(b) is amended by omitting “, including by facsimile”.
- (2) Section 352(1)(ca) and (d) are repealed and the following paragraphs substituted:
- (d) by posting it to the Post Office box address that the person has specified as an address for service; or
 - (e) by leaving it at a document exchange for direction to the document exchange box number that the person has specified as an address for service; or
 - (f) by sending it to the fax number that the person has specified as an address for service; or
 - (g) by sending it to the email address that the person has specified as an address for service; or
 - (h) by serving it in the manner that the Environment Court directs in the particular case.
- (3) Section 352 is amended by inserting the following subsection after subsection (4):
- (4A) Despite subsection (1), if a notice or other document is to be served on a Crown organisation for the purposes of this Act, it may be served—
- (a) by delivering it at the organisation’s head office or principal place of business; or
 - (b) by sending it to the fax number or email address that the organisation has specified for its head office or principal place of business; or
 - (c) by a method agreed between the organisation and the person serving the notice or document.
- (4) Section 352(5) is amended by omitting “(ca)” and substituting “(d)”.

142 New section 357 substituted

Section 357 is repealed and the following section substituted:

357 Right of objection against certain decisions

- (1) A person whose application to a territorial authority is not granted under section 10(2) has a right of objection to the territorial authority.
- (2) A person whose submission to an authority is struck out under section 41C(7) has a right of objection to the authority.
- (3) A person whose application to a consent authority is determined to be incomplete under section 88(3) has a right of objection to the consent authority.
- (4) A person whose application or submission is declined to be processed or considered by a board of inquiry exercising the powers of a consent authority under section 99(8) has a right of objection to the board.
- (5) A person who requests a certificate of compliance from the EPA under section 139(13)(a) has a right of objection to the EPA about the EPA's decision on the request.
- (6) A requiring authority whose notice to a territorial authority is declined under section 182(5) has a right of objection to the territorial authority.
- (7) A requiring authority whose application to a territorial authority is not granted under section 184 has a right of objection to the territorial authority.
- (8) A requiring authority or heritage protection authority whose request to a territorial authority is not granted under section 198C(4) or (5) has a right of objection to the territorial authority.
- (9) A person has a right of objection to a regional council about a public notice given by the council under section 369(11).

143 Right of objection to consent authority against certain decisions or requirements

- (1) Section 357A(1)(b) and (c) are repealed.
- (2) Section 357A(1)(e) is repealed and the following paragraphs are substituted:
 - (e) in respect of a decision of the authority under section 87E(5) or (6), for a person who made a request under section 87D:
 - (f) in respect of the consent authority's decision on an application or review described in subsections (2) to (5), for an applicant or consent holder, if—
 - (i) the application or review was notified; and
 - (ii) either no submissions were received or any submissions received were withdrawn:
 - (g) in respect of the consent authority's decision on an application or review described in subsections (2) to (5), for an applicant or consent holder, if the application or review was not notified.
- (3) Section 357A(2) and (3) are repealed and the following subsections substituted:

- (2) Subsection (1)(f) and (g) apply to an application made under section 88 for a resource consent. However, they do not apply if the consent authority refuses to grant the resource consent under sections 104B and 104C. They do apply if an officer of the consent authority exercising delegated authority under section 34A refuses to grant the resource consent under sections 104B and 104C.
- (3) Subsection (1)(f) and (g) apply to an application made under section 127 for a change or cancellation of a condition of a resource consent.
- (4) Subsection (1)(f) and (g) apply to a review of the conditions of a resource consent under sections 128 to 132.
- (5) Subsection (1)(f) and (g) apply to an application made under section 221 to vary or cancel a condition specified in a consent notice.

144 Procedure for making and hearing objection under sections 357 to 357B

- (1) Section 357C(1) is repealed and the following subsection substituted:
 - (1) An objection under section 357, 357A, or 357B must be made by notice in writing not later than 15 working days after the decision or requirement is notified to the objector, or within any longer time allowed by the person or body to which the objection is made.
 - (2) Section 357C(3) is amended by omitting “local authority or consent authority” and substituting “person or body to which the objection is made”.
 - (3) Section 357C(4) is amended by omitting “local authority or Minister, as the case may be,” and substituting “person or body to which the objection is made”.

145 Decision on objections made under sections 357 to 357B

- (1) Section 357D(1) is amended by omitting “consent authority or local authority” and substituting “person or body to which an objection is made under sections 357 to 357B”.
- (2) Section 357D(2) is repealed and the following subsection substituted:
 - (2) The person or body to which the objection is made must, within 15 working days after making its decision on the objection, give to the objector, and to every person whom the person or body considers appropriate, notice in writing of its decision on the objection and the reasons for it.

146 Appeals against certain decisions or objections

- (1) Section 358(1) is amended by omitting “section 357A” and substituting “section 357A(1)(a), (d), (f), or (g)”.
- (2) Section 358(1) is amended by adding “Appeals from objections under section 357(4) or (8) or, for objections only to a board of inquiry, under section 357(2) are excluded.”

147 Regulations

- (1) Section 360(1)(ab) is repealed.
- (2) Section 360(1) is amended by inserting the following paragraphs after paragraph (hi):
 - (hj) providing for discounts on administrative charges imposed under section 36 when local authorities are responsible for applications for a resource consent and applications to change or cancel conditions under section 127 not being processed within the time limits in this Act:
 - (hk) requiring local authorities to provide information under sections 35 and 35A to the Minister within the time limits specified in the regulations:
- (3) Section 360 is amended by adding the following subsection:
- (4) Regulations made under this section may incorporate material by reference. Schedule 1AA applies as if its references to a national environmental standard, national policy statement, or New Zealand coastal policy statement were references to regulations under section 360.

148 Section 395 repealed

Section 395 is repealed.

149 Amendments to Schedule 1 of principal Act

- (1) This section amends Schedule 1 of the principal Act.
- (2) The heading to clause 1 is amended by omitting “**Interpretation and time**” and substituting “**Time**”.
- (3) Clause 1(1) is repealed.
- (4) Clause 3C is amended by omitting “12” and substituting “36”.
- (5) Clause 4(4) is amended by omitting “local” and substituting “territorial”.
- (6) Clause 4(7) is repealed and the following subclause substituted:
- (7) If a territorial authority includes a requirement, or modification of a requirement, in its proposed district plan under subclause (6), it must make available for public inspection all information about the requirement that is required by the prescribed form for the notice of that requirement.
- (7) Clause 5(1A)(a) is amended by omitting “local” and substituting “territorial”.
- (8) Clauses 6, 7, 8, and 8A are repealed and the following clauses substituted:

6 Making of submissions

- (1) Once a proposed policy statement or plan is publicly notified under clause 5, the persons described in subclauses (2) to (4) may make a submission on it to the relevant local authority.
- (2) The local authority in its own area may make a submission.

- (3) Any other person may make a submission but, if the person could gain an advantage in trade competition through the submission, the person's right to make a submission is limited by subclause (4).
- (4) A person who could gain an advantage in trade competition through the submission may make a submission only if directly affected by an effect of the proposed policy statement or plan that—
 - (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition.
- (5) A submission must be in the prescribed form.

7 Public notice of submissions

- (1) A local authority must give public notice of—
 - (a) the availability of a summary of decisions requested by persons making submissions on a proposed policy statement or plan; and
 - (b) where the summary of decisions and the submissions can be inspected; and
 - (c) the fact that no later than 10 working days after the day on which this public notice is given, the persons described in clause 8(1) may make a further submission on the proposed policy statement or plan; and
 - (d) the date of the last day for making further submissions (as calculated under paragraph (c)); and
 - (e) the limitations on the content and form of a further submission.
- (2) The local authority must serve a copy of the public notice on all persons who made submissions.

8 Certain persons may make further submissions

- (1) The following persons may make a further submission, in the prescribed form, on a proposed policy statement or plan to the relevant local authority:
 - (a) any person representing a relevant aspect of the public interest; and
 - (b) any person that has an interest in the proposed policy statement or plan greater than the interest that the general public has; and
 - (c) the local authority itself.
- (2) A further submission must be limited to a matter in support of or in opposition to the relevant submission made under clause 6.

8A Service of further submissions

- (1) A person who makes a further submission under clause 8 must serve a copy of it on—
 - (a) the relevant local authority; and

- (b) the person who made the submission under clause 6 to which the further submission relates.
- (2) The further submission must be served on the person referred to in subclause (1)(b) not later than 5 working days after the day on which the person provides the relevant local authority with the further submission.

- (9) Clause 10 is repealed and the following clause substituted:

10 Decisions on provisions and matters raised in submissions

- (1) A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or plan concerned.
- (2) The decision—
 - (a) must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to—
 - (i) the provisions of the proposed statement or plan to which they relate; or
 - (ii) the matters to which they relate; and
 - (b) may include—
 - (i) matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and
 - (ii) any other matter relevant to the proposed statement or plan arising from the submissions.
- (3) To avoid doubt, the local authority is not required to give a decision that addresses each submission individually.
- (4) The local authority must—
 - (a) give its decision no later than 2 years after notifying the proposed policy statement or plan under clause 5; and
 - (b) publicly notify the decision within the same time.
- (5) On and from the date the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision.
- (10) Clause 11(1) and (2) are repealed and the following subclauses substituted:
 - (1) At the same time as a local authority publicly notifies a decision under clause 10(4)(b), it must serve, on every person who made a submission on the proposed policy statement or plan concerned,—
 - (a) a copy of the public notice; and
 - (b) a statement of the time within which an appeal may be lodged by the person.

- (2) Where a decision has been made under clause 9(2), the territorial authority, at the same time as it publicly notifies a decision under clause 10(4)(b), must serve a copy of the public notice on landowners and occupiers who, in the territorial authority's opinion, are directly affected by the decision.
- (11) Clause 11(3) is amended by omitting "gives a notice summarising a decision," and substituting "serves or provides a copy of the public notice under subclause (1) or (2),".
- (12) Clause 14(2) is repealed and the following subclauses are substituted:
- (2) However, a person may appeal under subclause (1) only if—
- (a) the person referred to the provision or the matter in the person's submission on the proposed policy statement or plan; and
 - (b) the appeal does not seek the withdrawal of the proposed policy statement or plan as a whole.
- (2A) For the purposes of subclause (2)(b), **proposed plan** does not include a variation or a change.
- (13) Clause 16(1) is repealed and the following subclause substituted:
- (1) A local authority must, without using the process in this Schedule, make an amendment to its proposed policy statement or plan that is required by section 55(2) or by a direction of the Environment Court under section 293.
- (14) Clause 16(3) is repealed.
- (15) Clause 20(4)(b) is repealed.
- (16) Clause 25(2)(a)(iii) is amended by inserting "legal" after "request has".
- (17) Clause 25 is amended by inserting the following subclause after subclause (2):
- (2A) Subclause (2)(a)(iii) is subject to section 86B.
- (18) Clause 29(1) is amended by omitting "(2) to (9)" and substituting "(1A) to (9)".
- (19) Clause 29 is amended by inserting the following subclauses after subclause (1):
- (1A) Any person may make a submission but, if the person is a trade competitor of the person who made the request, the person's right to make a submission is limited by subclause (1B).
- (1B) A trade competitor of the person who made the request may make a submission only if directly affected by an effect of the plan or change that—
- (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition.

150 Minor amendments

The principal Act is amended in the manner set out in the Schedule of this Act.

Part 2

Transitional provisions and amendments to other enactments

Subpart 1—Transitional provisions

151 Legal effect of rules

- (1) This section applies to—
 - (a) a rule in a proposed plan, if the proposed plan was notified under clause 5 of Schedule 1 of the principal Act before 1 October 2009; and
 - (b) a rule in a change, if the change was notified under clause 26(b) of Schedule 1 of the principal Act before 1 October 2009.
- (2) The legal effect of the rule must be determined as if the amendments made by this Act had not been made.

152 Existing rules providing for protection of trees

[Repealed]

Section 152: repealed, on 4 September 2013, by section 69 of the Resource Management Amendment Act 2013 (2013 No 63).

153 National environmental standards

The amendments made by this Act apply to a national environmental standard whether the standard was in force before or after the commencement of this section.

154 National policy statements

The amendments made by this Act apply to a national policy statement whether the statement was issued before or after the commencement of this section.

155 Proposals of national significance called in

- (1) Subsection (2) applies to a resource consent application, notice of requirement, or request for a change to a plan that, immediately before the commencement of this section,—
 - (a) had been lodged with or initiated by a local authority; and
 - (b) had been called in by the Minister for the Environment or Minister of Conservation under section 141B of the principal Act; but
 - (c) had not proceeded to the stage at which no further appeal was possible.
- (2) The application, notice of requirement, or request must be determined as if the amendments made by this Act had not been made.

156 Restricted coastal activities

- (1) Subsection (4) applies to an application for a coastal permit for a restricted coastal activity that, immediately before the commencement of this section,—

- (a) had been publicly notified under section 93 of the principal Act; but
 - (b) had not been decided by the Minister of Conservation.
- (2) Subsection (4) also applies to an application to change or cancel a condition of a coastal permit for a restricted coastal activity if, immediately before the commencement of this section,—
 - (a) the consent authority had decided, under section 127 of the principal Act, whether to notify the application; but
 - (b) the application had not proceeded to the stage at which no further appeal was possible.
- (3) Subsection (4) also applies to a review of the conditions of a coastal permit for a restricted coastal activity if, immediately before the commencement of this section,—
 - (a) the consent authority had decided, under section 130 of the principal Act, whether to notify the review; but
 - (b) the review had not proceeded to the stage at which no further appeal was possible.
- (4) The application or review must be determined as if the amendments made by this Act had not been made.

157 Notices of requirement

- (1) Subsection (2) applies to a requirement for a designation or heritage order if, immediately before the commencement of this section,—
 - (a) 1 or more of the following had occurred:
 - (i) a notice of the requirement had been given under section 168(1) or (2) or 189(1) of the principal Act;
 - (ii) the territorial authority had resolved to publicly notify the requirement under section 168A(1) of the principal Act;
 - (iii) the territorial authority had given notice of the requirement under section 189A(1) of the principal Act;
 - (iv) a requiring authority had given notice of the requirement, and the requirement was for a modified designation, under clause 4 of Schedule 1 of the principal Act;
 - (v) the territorial authority had decided to include the requirement in its proposed district plan under clause 4 of Schedule 1 of the principal Act; but
 - (b) the requirement had not proceeded to the stage at which no further appeal was possible.
- (2) The requirement must be determined as if the amendments made by this Act had not been made.

- (3) Subsections (1) and (2) also apply as if a requirement to alter a designation or heritage order were a requirement for a designation or heritage order.

158 Enforcement proceedings

- (1) Subsection (2) applies to an application for an enforcement order or to a charging document that—
- (a) relates to acts or omissions before the commencement of this section; and
 - (b) either—
 - (i) was lodged or filed before the commencement of this section but, immediately before the commencement of this section, had not proceeded to the stage at which no further appeal was possible; or
 - (ii) is lodged or filed after the commencement of this section.
- (2) The application, or the proceedings relating to the charge, must be determined as if the amendments made by this Act had not been made.
- (3) The period for filing a charging document in respect of an offence against section 338(1A) or (1B) of the principal Act is the period specified in section 338(4) of the principal Act, as amended by this Act, only if the offence is committed after the commencement of this section.

Section 158(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 158(1)(b)(i): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 158(1)(b)(ii): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 158(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 158(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

159 Outstanding applications for resource consent where further information requested

- (1) A consent authority must determine that an application for a resource consent has lapsed if—
- (a) the application was lodged before the commencement of the Resource Management Amendment Act 2005; and
 - (b) the consent authority requests, or has requested, further information on the application under section 92(1) of the principal Act; and
 - (c) the applicant does not comply with the request within 12 months after the later of the following:
 - (i) the date of commencement of this section;
 - (ii) the date on which the request was made.

- (2) An application that is lodged again with a consent authority after lapsing under subsection (1) must be treated for the purposes of the principal Act as if it were a new application for a resource consent.

160 Applications and matters lodged before commencement

- (1) Subsection (3) applies to anything specified in subsection (2) that, immediately before the commencement of this section,—
- (a) had been lodged with or initiated by a local authority or a Minister; but
 - (b) had not proceeded to the stage at which no further appeal was possible.
- (2) The things referred to in subsection (1) are—
- (a) an application for a resource consent (or anything treated by the principal Act as if it were an application for a resource consent):
 - (b) any other matter in relation to a resource consent (or in relation to anything treated by the principal Act as if it were a resource consent):
 - (c) an application for a water conservation order under section 201(1) of the principal Act:
 - (d) an application to revoke or amend a water conservation order under section 216(2) of the principal Act:
 - (e) an application or a proposal to vary or cancel an instrument creating an esplanade strip under section 234(1) or (3) of the principal Act:
 - (f) a matter of creating an esplanade strip by agreement under section 235(1) of the principal Act.
- (3) The application or matter must be determined as if the amendments made by this Act had not been made.
- (4) This section is subject to sections 156 and 159.

161 Certain proposed policy statements or plans, changes, and variations publicly notified before commencement

- (1) Subsection (2) applies to a proposed policy statement or plan or a change that, immediately before 1 October 2009,—
- (a) had been publicly notified under clause 5 or 26(b) of Schedule 1 of the principal Act; but
 - (b) had not proceeded to the stage at which no further appeal was possible.
- (2) The proposed policy statement or plan or change must be determined as if the amendments made by this Act had not been made.

Subpart 2—Other enactments

162 Consequential amendments to Costs in Criminal Cases Act 1967

- (1) This section amends the Costs in Criminal Cases Act 1967.

- (2) Section 4(5) is amended by omitting “or the Health and Safety in Employment Act 1992” and substituting “the Health and Safety in Employment Act 1992, or the Resource Management Act 1991”.
- (3) Section 7(3) is amended by omitting “or the Health and Safety in Employment Act 1992” and substituting “the Health and Safety in Employment Act 1992, or the Resource Management Act 1991”.
- (4) Section 10(2) is amended by omitting “or the Health and Safety in Employment Act 1992” and substituting “the Health and Safety in Employment Act 1992, or the Resource Management Act 1991”.

163 Consequential amendments to Crown Organisations (Criminal Liability) Act 2002

- (1) This section amends the Crown Organisations (Criminal Liability) Act 2002.
- (2) Section 3(b) is repealed and the following paragraph substituted:
 - (b) enable the prosecution of Crown organisations for offences under the Building Act 2004, the Health and Safety in Employment Act 1992, and the Resource Management Act 1991:
- (3) Section 6(1) is amended by adding the following paragraph:
 - (c) an offence against the Resource Management Act 1991.
- (4) Section 7(a) is repealed and the following paragraph substituted:
 - (a) compliance with the obligations imposed by the Building Act 2004, the Health and Safety in Employment Act 1992, or the Resource Management Act 1991; and
- (5) Section 8(5) is repealed and the following subsection substituted:
 - (5) This section is subject to section 54 of the Health and Safety in Employment Act 1992, sections 77A and 115A of the Summary Proceedings Act 1957, and section 4(9) of the Resource Management Act 1991.
- (6) Section 10(1)(b) is amended by adding the following subparagraph:
 - (vii) section 22 of the Resource Management Act 1991; or

164 Consequential amendment to Incorporated Societies Act 1908

Section 17(2) of the Incorporated Societies Act 1908 is repealed.

165 Consequential amendment to Local Government Official Information and Meetings Act 1987

Part 1 of Schedule 1 of the Local Government Official Information and Meetings Act 1987 is amended by omitting “146” and substituting “149J”.

166 Consequential amendments to Sentencing Act 2002

Section 4(4) of the Sentencing Act 2002 is amended by omitting “or the Health and Safety in Employment Act 1992” and substituting “, the Health and Safety in Employment Act 1992, or the Resource Management Act 1991”.

Schedule

Minor amendments

s 150

Amendments required because District Land Registrars and Registrars of Deeds no longer exist

Section 109(2): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 218(1)(a)(i) and (v) and (b): omit “a District Land Registrar” and substitute in each case “the Registrar-General of Land”.

Section 220(3): omit “District Land Registrar” in each place where it appears and substitute in each case “Registrar-General of Land”.

Section 221(5): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 224(b): omit “District Land Registrar or Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 224(c) and (d): omit “District Land Registrar or the Registrar of Deeds, as the case may require,” and substitute in each case “Registrar-General of Land”.

Section 224(g): omit “District Land Registrar or the Registrar of Deeds, as the case may be,” and substitute “Registrar-General of Land”.

Section 226(1): omit “A District Land Registrar” and substitute “The Registrar-General of Land”.

Section 226A(2): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 228: omit “District Land Registrar” in each place where it appears and substitute in each case “Registrar-General of Land”.

Section 232(2)(e): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 234(7) and (8): omit “District Land Registrar” and substitute in each case “Registrar-General of Land”.

Section 235(2): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 237(3): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 237(4)(b): omit “a District Land Registrar or a Registrar of Deeds” and substitute “the Registrar-General of Land”.

Section 237(4)(b): omit “the District Land Registrar” and substitute “the Registrar-General of Land”.

Amendments required because District Land Registrars and Registrars of Deeds no longer exist—*continued*

Section 237B(5) and (7): omit “District Land Registrar” and substitute in each case “Registrar-General of Land”.

Section 237D(3): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 238(1): omit “a District Land Registrar or Registrar of Deeds” and substitute “the Registrar-General of Land”.

Section 239(1): omit “a District Land Registrar or a Registrar of Deeds” and substitute “the Registrar-General of Land”.

Section 240(2)(a): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 240(2)(b): omit “Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 240(5)(b): omit “District Land Registrar or Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 240(5)(b): omit “District Land Registrar or the Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 241(1)(b): omit “District Land Registrar or the Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 241(1)(c): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 241(1): omit “that Registrar” and substitute “the Registrar-General”.

Section 241(2)(b): omit “District Land Registrar” and substitute “Registrar-General of Land”.

Section 241(4)(b): omit “District Land Registrar or Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 241(4)(b): omit “District Land Registrar or the Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 242: omit “District Land Registrar” in each place where it appears and substitute in each case “Registrar-General of Land”.

Section 243(c), (d), and (f)(ii): omit “District Land Registrar or the Registrar of Deeds” and substitute in each case “Registrar-General of Land”.

Section 243(f)(ii): omit “District Land Registrar or Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 246(1): omit “Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 246(2): omit “Registrar of Deeds” and substitute “Registrar-General of Land”.

Amendments required because District Land Registrars and Registrars of Deeds no longer exist—*continued*

Section 246(2)(b): omit “District Land Registrar or the Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 246(3): omit “Registrar of Deeds” and substitute “Registrar-General of Land”.

Section 355(4)(c) and (d) and (5): omit “District Land Registrar” in each place where it appears and substitute in each case “Registrar-General of Land”.

Section 417(6) and (7): omit “District Land Registrar” in each place where it appears and substitute in each case “Registrar-General of Land”.

Section 417(6): omit “District Land Registrar’s” and substitute “Registrar-General of Land’s”.

Amendment required because Hazards Control Commission never existed

Section 24(g): omit “, and the functions, powers, and duties of the Hazards Control Commission under Part 13”.

Amendments required because Schedule 2 no longer exists

Section 77(4): omit “in clause 5 of Part 2 of Schedule 2”.

Section 230(1): omit “405A, and clause 5 of Part 2 of Schedule 2” and substitute “and 405A”.

Amendments required because of amendments relating to public notification and limited notification

Section 39B(1)(a): omit “notified under section 93” and substitute “that is notified”.

Section 97: omit “under section 93 or service of notice under section 94(1)” and substitute “or limited notification of the relevant application”.

Section 104(3)(d): omit “publicly”.

Section 104D(1): omit “section 93 in relation to minor effects” and substitute “section 95A(2)(a) in relation to adverse effects”.

Section 130(3): omit “Sections 93 to 94C” and substitute “Sections 95 to 95F”.

Section 130(4): repeal.

Section 130(5)(a): omit “section 93(2) or section 94(1)” and substitute “sections 95 to 95F”.

Section 150B(1)(a): omit “notification” and substitute “public notification”.

Section 150B(1)(b): omit “notification” and substitute “public notification”.

Section 150B(1)(b)(ii): omit “notify the application under section 94” and substitute “give limited notification of the application”.

Section 310(h): omit “sections 93 to 94C” and substitute “sections 95 to 95F”.

Amendments required because of amendments relating to public notification and limited notification—*continued*

Section 390C(1)(a): omit “notified in accordance with section 93 or notice of the application served in accordance with section 94” and substitute “notified under sections 95 to 95F”.

Section 390C(2): omit “notified in accordance with section 93” and substitute “notified under sections 95 to 95F”.

Section 391A(2)(a): omit “notified in accordance with section 93 or notice of the application served in accordance with section 94” and substitute “notified under sections 95 to 95F”.

Section 393(1)(e): omit “notified in accordance with section 93 or notice of the application served in accordance with section 94” and substitute “notified under sections 95 to 95F”.

Section 409(4): omit “notified pursuant to section 93” and substitute “notified under sections 95 to 95F”.

Schedule 11 heading: omit “93, 94” and substitute “95E”.

Amendments required that are technical or are consequential to amendments in this Act

Definition of **controlled activity** in section 2(1): omit “section 77B(2)” and substitute “section 87A(2)”.

Definition of **discretionary activity** in section 2(1): omit “section 77B(4)” and substitute “section 87A(4)”.

Definition of **non-complying activity** in section 2(1): omit “section 77B(5)” and substitute “section 87A(5)”.

Definition of **permitted activity** in section 2(1): omit “section 77B(1)” and substitute “section 87A(1)”.

Definition of **prohibited activity** in section 2(1): omit “section 77B(7)” and substitute “section 87A(6)”.

Definition of **restricted discretionary activity** in section 2(1): omit “section 77B(3)” and substitute “section 87A(3)”.

Section 31A(1)(b)(i): omit “district” and substitute “region”.

Section 32(1)(a): omit “national policy statement or a national environmental standard” and substitute “national environmental standard or a national policy statement”.

Section 32(1)(c) and (d): omit “of Part 2” in each case.

Section 36D: insert “legal” after “agreement has”.

Heading to section 40: omit “**a hearing**” and substitute “**hearings**”.

Section 40(3): omit “consent authority” and substitute “authority”.

Section 41(1): omit “146” and substitute “149J”.

Amendments required that are technical or are consequential to amendments in this Act—continued

Section 81(2): omit “(as defined in section 9)”.

Section 85(3): omit “section 9(1)” and substitute “section 9(3)”.

Section 85B(1)(a): omit “or clause 8”.

Section 88(1): omit “local” and substitute “consent”.

Section 88(3): omit “local” and substitute “consent”.

Section 88(4): omit “relevant local” and substitute “consent”.

Section 104D(1)(a): omit “section 104(3)(b)” and substitute “section 104(3)(a)(ii)”.

Section 106(1): omit “Despite section 77B, a” and substitute “A”.

Section 107A(3): omit “Despite sections 77B(2)(a)” and substitute “Despite sections 87A(2)(a)”.

Section 107B(1)(b): omit “Foreshore and Seabed Act 2004” and substitute “the Foreshore and Seabed Act 2004”.

Section 108(2)(f): omit “section 77B(2)(c) or (3)(c)” and substitute “section 87A(2)(b) or (3)(a)”.

Section 112(2): omit “section 14(1)(c)” and substitute “section 14(2)(c)”.

Section 127(4): omit “local” and substitute “consent”.

Section 128(1)(b) and (ba): omit “water, coastal” and substitute “coastal, water” in each case.

Section 136(4)(b): insert “39 to 42A,” after “sections”.

Section 137(5)(c): insert “39 to 42A,” after “sections”.

Section 153(e)(ii): omit “or section 426”.

Section 165P(1)(j): omit “36(ca)” and substitute “36(1)(ca)”.

Section 165Q(4): omit “36(ca)” and substitute “36(1)(ca)”.

Section 165S(4): omit “(3),” and substitute “(3)”.

Section 165ZA(3)(b): omit “36(a)” and substitute “36(1)(a)”.

Section 180(2): omit “further formality” and substitute “using the process in Schedule 1”.

Section 182(2): omit “further formality” and substitute “using the process in Schedule 1”.

Section 189(1): insert “in the prescribed form” after “give notice”.

Section 189(3): repeal.

Section 193(a): omit “described in section 9(4)”.

Section 205(2): omit “(2) and (4)” and substitute “(5) and (6)”.

Section 226A(1)(b): add “; or”.

Amendments required that are technical or are consequential to amendments in this Act—continued

Section 228(1)(a): insert “legal” after “subdivision has”.

Section 245(2): omit “Survey Act 1986” and substitute “Cadastral Survey Act 2002”.

Section 287(1): omit “point” and substitute “question”.

Section 292(2): omit “further formality” and substitute “using the process in Schedule 1”.

Section 299(1): omit “point” and substitute “question”.

Section 303(1)(b): omit “Court” in the first place it appears and substitute “High Court”.

Section 303(3): omit “point” and substitute “question”.

Heading to section 305: omit “**points**” and substitute “**questions**”.

Section 305(1): omit “points” and substitute “questions”.

Section 310(a): add “; or”.

Section 310(g): add “; or”.

Section 357B(a): omit “section 149B(2)” and substitute “section 149ZD(1)”.

Section 357B(b): omit “section 149B(3) or (4)” and substitute “section 149ZD(2) to (4)”.

Section 372(4)(a): omit “further formality” and substitute “using the process in Schedule 1”.

Section 373(4): omit “within the meaning of section 9(4)”.

Section 417A(1): omit “subsections (1) and (2) of section 9” and substitute “section 9(3) and (4)”.

Section 417A(2): omit “subsections (1) and (2) of section 9” and substitute “section 9(3) and (4)”.

Section 417A(3): omit “subsections (1) and (2) of section 9” and substitute “section 9(3) and (4)”.

Section 418(2): omit “paragraphs (b) and (c) of section 14(1)” and substitute “section 14(2)(b) and (c)”.

Section 418(4): omit “paragraphs (b) and (c) of section 14(1)” and substitute “section 14(2)(b) and (c)”.

Section 418(8): omit “section 14(1)(a)” and substitute “section 14(2)(a)”.

Section 418(9): omit “section 14(1)(a)” and substitute “section 14(2)(a)”.

Section 420(2)(b): omit “further formality” and substitute “using the process in Schedule 1”.

Section 421(2)(b)(i): omit “further formality” and substitute “using the process in Schedule 1”.

Amendments required that are technical or are consequential to amendments in this Act—continued

Clause 4(10) of Schedule 1: omit “further formality” and substitute “using the process in this Schedule”.

Clause 16(2) of Schedule 1: omit “further formality” and substitute “using the process in this Schedule”.

Clause 20A of Schedule 1: omit “further formality” and substitute “using the process in this Schedule”.

Schedule 4 heading: omit “88(6)(b)” and substitute “88, Schedule 1”.

Clause 2(g) of Schedule 10: omit “Noxious Plants Act 1978” and substitute “Biosecurity Act 1993”.

Clause 2(h) of Schedule 10: omit “Agricultural Pests Destruction Act 1967” and substitute “Biosecurity Act 1993”.

Reprints notes

1 *General*

This is a reprint of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, will have the status of an official version once issued by the Chief Parliamentary Counsel under section 17(1) of that Act.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Resource Management Amendment Act 2013 (2013 No 63): section 69

Criminal Procedure Act 2011 (2011 No 81): section 413