

# **Health (Drinking Water) Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The policy objectives of the Bill are to improve the effectiveness and efficiency of Part 2A (drinking water) of the Health Act 1956 (the Act) without materially affecting any party or imposing new or additional costs.

Following the Government Inquiry into Havelock North Drinking Water, Cabinet agreed to a range of measures to address the Inquiry's recommendations, including some immediate amendments to Part 2A of the Act.

The amendments proposed as a result of the Inquiry will be supplemented with a small number of additional, minor improvements to Part 2A of the Act.

The main provisions in the Bill—

- remove requirements for the Ministry of Health to consult for 3 years and gazette changes for 2 years prior to making any changes to the drinking-water standards:
- clarify that water safety plans must include timetables to implement measures that mitigate risks to drinking water:
- streamline processes for the appointment of drinking-water assessors:
- remove unnecessary references to designated ports and airports.

### **Departmental disclosure statement**

The Ministry of Health is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2018&no=69>

### **Regulatory impact assessment**

A regulatory impact assessment was not required for the policy in this Bill as it has no or only minor impacts on businesses, individuals, or not-for-profit entities.

The amendments proposed do not meet the threshold for the preparation of a regulatory impact assessment. Later amendments to the drinking-water standards facilitated by this Bill may have significant implications for water suppliers. The health benefits of any such changes to the drinking-water standards as well as their practical and cost implications for suppliers (including appropriate lead times) will need to be considered and consulted on as part of the development of any new or amended drinking-water standards. Amendments that have more than minor implications for water suppliers will require a regulatory impact assessment unless an exemption is granted.

### **Clause by clause analysis**

*Clause 1* relates to the Title.

*Clause 2* relates to commencement and provides that the legislation will come into force on the day after the date on which it receives the Royal assent.

*Clause 3* provides that the Health Act 1956 is the principal Act amended by this Bill.

## **Part 1**

### **Amendments to Part 2A of principal Act**

*Clause 4* amends section 69C of the principal Act, which relates to the application of sections 69S to 69ZC of that Act, by deleting references to the operator of a designated port or airport. It is considered no longer necessary to impose duties on those operators under Part 2A of the principal Act because ports and airports generally receive water from networked suppliers who are subject to Part 2A.

*Clause 5* amends section 69P of the principal Act, which requires the Minister of Health to consult before issuing, adopting, or amending drinking-water standards. Currently, section 69P requires the Minister to be satisfied that adequate consultation has been carried out over a period of at least 3 years. The reference to the 3-year period is removed by this amendment.

*Clause 6* replaces section 69R of the principal Act, which relates to the commencement of drinking-water standards. Currently, most drinking-water standards come into force at least 2 years after the date of publication of the relevant *Gazette* notice. This amendment provides for standards to come into force at least 28 days after the date of publication of the relevant *Gazette* notice.

*Clause 7* repeals section 69U(4) of the principal Act, which sets out examples of reasonable steps that contribute to the protection of the source of drinking water. It is intended that the Ministry of Health will provide examples through guidelines.

*Clause 8* amends section 69Z of the principal Act, which requires drinking-water suppliers to prepare and implement a water safety plan. This amendment replaces an incorrect reference to a risk management plan with a reference to a water safety plan

and requires a supplier to comply with the timetable in the supplier's water safety plan.

*Clause 9* amends section 69ZK of the principal Act, which enables the Director-General of Health to appoint drinking-water assessors. This amendment—

- deletes references to agencies and ensures that only individuals (natural persons) will be appointed as assessors:
- removes the requirement that individual assessors and any agency that employs them be internationally accredited.

*Clause 10* amends section 69ZP of the principal Act, which sets out the powers of drinking-water assessors and designated officers. There is an overlap between the powers in section 69ZP and those available to designated officers in sections 128 (powers of entry and inspection) and 128A (powers under the Building Act 2004). This overlap in the relevant powers has caused some confusion among people performing official functions under Part 2A of the principal Act. This amendment will—

- provide that the general powers in sections 128 and 128A apply for the purposes of Part 2A, whether or not a drinking-water assessor or designated officer is a medical officer of health, a health protection officer, or a person authorised in writing by the medical officer of health or by any local authority:
- make the exercise of those powers subject to sections 69ZR (which restricts the exercise of powers) and 69ZS (which requires a warrant to enter a dwelling-house).

*Clause 11* amends section 69ZZZB of the principal Act. This amendment replaces subsection (1) of that section, which requires the Director-General to prepare and publish an annual report on drinking water. The *new subsection (1)* carries over the requirement for an annual report, but enables the Director-General to use contractors to prepare and publish the report.

## Part 2

### Further amendments to principal Act

*Clauses 12 to 19* make technical amendments to various provisions in Part 2A of the principal Act, principally to align them with the amendments set out in *Part 1* of this Bill. In these amendments,—

- the definition of rural agricultural drinking-water supply in section 69G is amended to remove the reference to commercial agriculture so that all supplies used primarily for agricultural purposes of any kind will be caught by this definition:
- references to port and airport operators are deleted:
- the requirement in section 69ZR(1)(c) for designated officers to obtain the written approval of a medical officer of health before exercising a power of entry is removed because designated officers have that power already under section

128 in their capacity as health protection officers. This amendment reflects the changes made by *clause 10* of this Bill:

- section 69ZX is replaced by a new section that requires the Director-General to keep a register of individuals appointed as drinking-water assessors, which reflects the amendments made by *clause 9* of this Bill that ensure that only individuals (not agencies) are appointed as drinking-water assessors. The current section 69ZX provides only for the registration of agencies appointed as drinking-water assessors, but no agencies have been appointed.

*Hon Dr David Clark*

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## Part 2

### Further amendments to principal Act

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

#### 1 Title

This Act is the Health (Drinking Water) Amendment Act **2018**.

#### 2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

#### 3 Principal Act

This Act amends the Health Act 1956 (the **principal Act**).

## Part 1

### Amendments to Part 2A of principal Act

4	<b>Section 69C amended (Application of sections 69S to 69ZC generally)</b> In section 69C(2) to (7), delete “or operator of a designated port or airport”.	10
5	<b>Section 69P amended (Minister must consult before issuing, adopting, or amending drinking-water standards)</b> In section 69P(1), delete “over a period of at least 3 years”.	15
6	<b>Section 69R replaced (Commencement of drinking-water standards)</b> Replace section 69R with:	

<b>69R</b>	<b>Commencement of drinking-water standards</b>	
	Drinking-water standards (and any amendments to those standards) come into force on a day specified in a notice under section 69Q(1) that is at least 28 days after the date of publication of that notice in the <i>Gazette</i> .	
<b>7</b>	<b>Section 69U amended (Duty to take reasonable steps to contribute to protection of source of drinking water)</b>	<b>5</b>
	Repeal section 69U(4).	
<b>8</b>	<b>Section 69Z amended (Duty to prepare and implement water safety plan)</b>	
(1)	In section 69Z(8)(b), delete “risk management”.	
(2)	After section 69Z(8)(b), insert:	<b>10</b>
(c)	take all reasonable steps to comply with the timetable set out in the supplier’s water safety plan in accordance with subsection (2)(a)(v) and (b)(iv).	
<b>9</b>	<b>Section 69ZK amended (Director-General may appoint drinking-water assessors)</b>	<b>15</b>
(1)	In section 69ZK(1), replace “persons or agencies” with “individuals”.	
(2)	In section 69ZK(2), replace “a person or agency” with “an individual”.	
(3)	In section 69ZK(2), replace “the person or agency” with “the individual”.	
(4)	Repeal section 69ZK(2)(b) and (3).	
(5)	In section 69ZK(4), replace “person” with “individual”.	<b>20</b>
<b>10</b>	<b>Section 69ZP amended (Powers of drinking-water assessors and designated officers)</b>	
	Replace section 69ZP(1)(a) with:	
(a)	exercise the powers in sections 128 and 128A for that purpose in their own right (whether or not they hold any office or authorisation referred to in section 128), as long as they comply with sections 69ZR (which restricts the exercise of their powers) and 69ZS (which requires a warrant to enter a dwellinghouse); and	<b>25</b>
<b>11</b>	<b>Section 69ZZZB amended (Director-General must publish annual report)</b>	
	Replace section 69ZZZB(1) with:	<b>30</b>
(1)	The Director-General must ensure that a report on drinking water is prepared and published, by or on behalf of the Director-General, before 1 July in each year.	

## Part 2

### Further amendments to principal Act

- 12 Section 69E amended (Application of sections 69S to 69ZC to water carriers)**  
 In section 69E(1) and (2), delete “or operator of a designated port or airport”. 5
- 13 Section 69F amended (Bulk suppliers, networked suppliers, water carriers, and designated ports or airports may elect earlier compliance)**
- (1) In the heading to section 69F, replace “**water carriers, and designated ports or airports**” with “**and water carriers**”.
- (2) In section 69F(1) and (2), replace “water carrier, or designated port or airport” with “or water carrier” in each place. 10
- 14 Section 69G amended (Interpretation)**
- (1) In section 69G, definition of **critical points**, repeal paragraph (b)(v) and (vi).
- (2) In section 69G, repeal the definitions of **designated port or airport** and **medical officer of health**. 15
- (3) In section 69G, replace the definition of **drinking-water assessor** with:  
**drinking-water assessor** means an individual appointed under section 69ZK as a drinking-water assessor
- (4) In section 69G, definition of **drinking-water supplier**, repeal paragraph (b)(iii). 20
- (5) In section 69G, definition of **rural agricultural drinking-water supply**, paragraph (a)(i), delete “commercial”.
- (6) In section 69G, definition of **rural agricultural drinking-water supply**, paragraph (b), replace “a drinking-water supply using” with “that part of a drinking-water supply that uses”. 25
- 15 Section 69J amended (Drinking-water register)**
- (1) In section 69J(1)(a), delete “operators of designated ports or airports,”.
- (2) In section 69J(3)(e), delete “the operator of a designated port or airport,”.
- 16 Section 69K amended (Applications for registration)**  
 Repeal section 69K(4)(a)(iii). 30
- 17 Section 69O amended (Minister may issue, adopt, amend, or revoke drinking-water standards)**  
 In section 69O(3)(b), delete “designated port or airport,”.
- 18 Section 69ZR amended (Restrictions on exercise of powers)**  
 In section 69ZR(1)(c), delete: 35

- (a) “or designated officer who is not a medical officer of health”; and
- (b) “or officer”.

**19 Section 69ZX replaced (Register of drinking-water assessors)**

Replace section 69ZX with:

**69ZX Register of drinking-water assessors**

- |     |   |    |
|-----|---|----|
| (1) | The Director-General must maintain a register of individuals who have been appointed as drinking-water assessors.   | 5  |
| (2) | The following particulars must be recorded in the register in respect of every individual registered as a drinking-water assessor:  |    |
| (a) | the individual’s name and any business contact details; and   | 10 |
| (b) | the date and term of the individual’s appointment; and  |    |
| (c) | any conditions on the individual’s appointment; and   |    |
| (d) | any other particulars that may be required by or under this Part or regulations made under section 69ZZY.   |    |
| (3) | The register may also include any other information relevant to an individual’s appointment as a drinking-water assessor that the Director-General considers appropriate. | 15 |