

## **Resource Management Amendment Bill**

Government Bill

### **Explanatory note**

#### **General policy statement**

The overarching objectives of the Resource Management Amendment Bill (the **Bill**) are to reduce complexity, increase certainty, restore public participation opportunities, and improve Resource Management Act 1991 (**RMA**) processes. The Bill also supports the urgent need to improve freshwater management and outcomes in New Zealand.

The Bill principally amends the RMA and the Resource Legislation Amendment Act 2017 (**RLAA**). The Bill includes consequential amendments to the District Court Act 2016, Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004, Remuneration Authority Act 1977, and the Judicial Salaries and Allowances (2018/19) Determination 2018.

#### *Proposals*

This Bill repeals a number of changes made by the RLAA, and provides a number of improvements and clarifications to existing RMA processes in relation to resource consents, compliance and enforcement, and Environment Court matters.

#### **Reducing complexity, increasing certainty, and restoring public participation by repealing changes made by RLAA**

*Reducing the powers of Minister for the Environment to prohibit or overturn local plan rules*

Section 360D of the RMA enables regulations to prohibit or overturn rules in council plans that duplicate or overlap with other legislation. This Bill repeals the ability to make such regulations.

*Removing preclusions on public notification and appeals for subdivision and residential activity resource consents, and restrictions on the scope of appeals*

Certain types of resource consent applications cannot currently be notified to the public for submissions, or appealed to the Environment Court by applicants or submitters. The Bill re-enables submissions and appeals when appropriate, for subdivision and residential activity applications, and removes the ability for regulations to prevent notification of other types of applications. The Bill also reintroduces the ability for submitters to appeal resource consent decisions regarding issues that were not included in their original submission.

*Repealing regulation-making power for additional fast-track activities*

District land use resource consent applications with a controlled activity status are subject to a 10 working day “fast-track” process, rather than the standard 20 working day process. The Bill repeals the ability to fast-track other types, or classes, of activities, or to prescribe information requirements for fast-track applications, by regulation.

*Reversing the change to subdivision presumption*

Under the original RMA, subdivision was presumed to be restricted unless explicitly permitted by a district plan rule. The RLAA reversed this, so that subdivision would be permitted unless explicitly restricted by a district plan. This Bill reinstates the original presumption, which existing district plans were initially formulated under.

*Reinstating use of financial contributions except for notices of requirement lodged by Minister of Education*

Consent authorities can currently require resource consent holders to pay financial contributions (money or land) as consent conditions, in particular circumstances. The RLAA contains provisions to phase out financial contributions, so that consent authorities would no longer be able to require these from April 2022 onwards. The Bill repeals the relevant RLAA provisions, so that consent authorities can continue to charge financial conditions after April 2022.

In order to avoid a risk that unreasonable delays and costs are imposed on the establishment of new state schools, the Bill restricts the ability to recommend or impose financial contribution conditions on any notices of requirement lodged by Minister of Education, as a requiring authority.

**Improving resource management processes and enforcement provisions**

*Enabling applicants to have processing of non-notified resource consent applications suspended*

Resource consent applicants are currently able to suspend processing of their limited and publicly notified applications for up to 130 working days, by request to the consent authority. The Bill enables applicants to also suspend processing of their non-notified applications, for up to 20 working days.

*Enabling consent authorities to suspend processing resource consent applications until fixed administrative charges are paid*

Consent authorities are able to fix, in advance, charges payable by resource consent applicants to cover processing and administration costs. The Bill enables consent authorities to suspend their processing of resource consent applications, and pause the applicable statutory timeframes, when fixed charges payable at lodgement or notification are outstanding (until they are paid).

*Extending time period to lodge retrospective resource consent applications for emergency works*

During states of emergency, persons exercising emergency powers can undertake particular activities without being subject to the general restrictions of the RMA. In these situations, the person must (a) advise the relevant consent authority of their activity, and then (b) apply retrospectively for any necessary resource consents within 20 working days. The Bill extends this period to 60 working days.

*Enabling review of conditions of multiple resource consents concurrently*

The Bill makes 3 amendments to provisions for review of consent conditions, in response to new regional plan rules relating to freshwater. The Bill—

- makes explicit that, in response to a rule, a regional council can review conditions of multiple consents concurrently;
- allows regional land use consents to be reviewed;
- allows these reviews to be initiated as soon as the relevant rule is operative (even if other rules in the plan are, for example, still under appeal).

*Increasing maximum infringement fees under RMA*

The current maximum infringement fees able to be set in regulations under the RMA are \$2,000 for stock exclusion infringement offences, and \$1,000 for all other infringement offences. Specific infringement fees are set in the Resource Management (Infringement Offences) Regulations 1999. The Bill increases the maximum infringement fees able to be set in regulations under the RMA. The Bill, as introduced, includes the following proposed figures:

- \$2,000 for natural persons; and
- \$4,000 for all other persons (for example, companies or trusts).

*Extending statutory limitation period to file charges for prosecutions under RMA*

Currently a 6-month statutory limitation period applies for a person to file charges for certain offences under the RMA. The Bill increases this to 12 months, which is consistent with the statutory limitation period under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

*Enabling Environmental Protection Authority to take enforcement action under RMA*

Responsibility for enforcement under the RMA generally sits with local government. The Bill empowers the Environmental Protection Authority (EPA) to also undertake investigation and enforcement actions under the RMA. This is to enhance accountability and provide support for those currently responsible for RMA enforcement. Specifically, the Bill provides for the EPA to—

- appoint enforcement officers:
- apply to the Environment Court for declarations:
- commence investigation and enforcement actions where no local authority is involved:
- assist councils in investigation and enforcement actions already underway:
- intervene, and take over the investigation and enforcement functions of councils in relation to specific cases, with procedures to be followed in such cases:
- apply to the court to recover just and reasonable costs of investigations and prosecutions from convicted offenders:
- gather information from councils to exercise enforcement functions:
- report on actions taken under this enforcement function in its annual report, including the outcomes of these actions (where it would not prejudice the maintenance of law).

*Protecting special advisors to Environment Court*

The Environment Court can appoint special advisors to provide technical assistance in complex cases. Technical advisors in other jurisdictions are protected against legal proceedings for actions they take while acting in good faith in the performance of their duties. The Bill gives special advisors to the Environment Court similar protection from legal proceedings.

*Change in title for Principal Environment Judge*

The Bill changes the title of the Principal Environment Judge to Chief Environment Judge to better reflect the role and responsibilities of the head of a Court.

*Alternate Environment Judges*

The Bill also makes 2 amendments relating to the appointment of alternate Environment Judges. The Bill—

- clarifies that acting Māori Land Court Judges and acting District Court Judges may be appointed as alternate Environment Judges:
- enables retired Environment Judges (who are not already Māori Land Court Judges or acting Māori Land Court Judges, District Court Judges or acting District Court Judges) to be appointed as alternate Environment Judges, if the Chief (formerly Principal) Environment Judge is satisfied that this is needed for operation of the Environment Court.

*Clarification of process for making national environmental standards*

A single board of inquiry process may be followed to make a national environmental standard (NES), a national policy statement (NPS), or both. The RMA prescribes final procedural requirements for the relevant Minister to follow in response to a board of inquiry's recommendations for an NPS, but not for an NES. The Bill makes a minor amendment to clarify that the same steps that apply to an NPS also apply to an NES.

**Improving freshwater management***New specialised planning process for freshwater*

To support the urgent need to improve freshwater management, the Bill provides a new plan making process which councils must use for proposed regional policy statements or regional plans (or changes) for freshwater. The Bill requires that councils notify changes to their regional policy statements and regional plans to implement the National Policy Statement for Freshwater Management (NPS-FM) no later than 31 December 2023, and make final decisions by 31 December 2025.

The Bill provides for the Minister for the Environment to appoint freshwater commissioners, chaired by a retired or current Environment Judge. Hearing panels are to be then convened. Each panel will generally comprise 2 freshwater commissioners, 2 accredited local councillors (or commissioners nominated by council) and 1 accredited person with an understanding of tikanga Māori and mātauranga Māori (selected from nominations from local tangata whenua). These panels will have enhanced hearing powers, including directing conferencing of experts, appointing special advisors, cross examination and mediation.

Each panel must provide recommendations to the relevant council on submissions and any related freshwater planning matters, and can recommend changes to the proposed documents. The council must make decisions on the panel's recommendations within 20 working days, and can accept or reject (and provide alternative provisions).

The Bill provides for merits appeals to the Environment Court on those parts of the panel's recommendations that were rejected by the council, and further appeals on points of law to the High Court. Where the council accepts the panel's recommendations, the Bill enables appeals to the High Court on points of law and further appeals to the Court of Appeal (subject to leave being granted).

*Repealing and replacing Collaborative Planning Process*

To reduce complexity, the Bill repeals the collaborative planning process that was introduced by the Resource Legislation Amendment Act 2017, which will be replaced in Part 4 of Schedule 1 of the RMA by the new freshwater planning process.

**Departmental disclosure statement**

The Ministry for the Environment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to infor-

mation 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 [PPU to insert URL and link].

### **Regulatory impact assessments**

The Ministry for the Environment produced regulatory impact assessments on [date] to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact assessments can be found at—

- [Insert URL link(s) to the RIA on the agency's/agencies' Internet site(s)]
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* provides for the commencement of the provisions of the Act. *Clauses 22 and 24* are to come into force 3 months after Royal assent. The rest of the Act comes into force on the day after the date on which it receives the Royal assent.

## **Part 1**

### **Amendments to Resource Management Act 1991**

*Clause 3* provides that *Part 1* amends the Resource Management Act 1991 (the **Act**).

*Clause 4* amends section 2 (which defines terms used in the Act) to insert a definition of alternate Environment Judge and to replace the definition of enforcement officer with a definition that includes enforcement officers appointed by the EPA. *Clause 4* also clarifies the definition of fresh water.

*Clause 5* amends section 4 to include the EPA as one of the bodies that may bring certain proceedings against an instrument of the Crown. This is a result of the new enforcement functions of the EPA conferred by this Bill.

*Clause 6* amends section 11 to reinstate the restrictions in the Act relating to subdivisions before it was amended by the Resource Legislation Amendment Act 2017. Currently, a person may subdivide land if—

- the subdivision—
  - is expressly allowed by a resource consent; or
  - does not contravene a national environmental standard, a rule in a district plan, or a rule in a proposed district plan for the same district (if any); and
- the subdivision is shown on specified survey plans.

*New section 11(1)(a)* permits a person to subdivide land if—

- the subdivision is expressly allowed by a national environmental standard, a rule in a district plan, a rule in a proposed district plan for the same district (if this is a proposed plan), or a resource consent; and
- the subdivision is shown on specified survey plans.

*Clause 7* replaces the reference to Principal Environment Judge with Chief Environment Judge.

*Clause 8* amends section 38 to reflect that enforcement officers may also be appointed by the EPA under *new section 343I*.

*Clause 9* amends section 42C to provide that the EPA's functions include the enforcement functions conferred by *new section 343F*.

*Clause 10* consequentially amends section 46A and corrects cross-referencing errors in that section.

*Clauses 11 to 13* amend sections 48, 51A, and 52 to better align the process for making national policy statements and national environmental standards.

*Clause 14* repeals subpart 4 of Part 5 which relates to the collaborative planning process.

*Clause 15* repeals section 80C(4)(b) as a consequence of the removal of the collaborative planning process.

*Clause 16* inserts a *new subpart 5A* into Part 5 to establish a freshwater planning process that regional councils must comply with when preparing a freshwater planning instrument. A freshwater planning instrument means a proposed regional plan, regional policy statement, or change or variation that—

- implements a national policy statement on freshwater management; or
- otherwise relates to freshwater.

The freshwater planning process is set out in detail in *new Part 4* of Schedule 1.

*Clauses 17 and 18* relate to fast-track applications for a resource consent. The definition of fast-track application in section 87AAC(1) is amended so that it no longer includes an activity prescribed under section 360G(1)(a). Section 88 is consequentially amended because section 360G is repealed.

*Clause 19(1)* amends the table in section 88B. The first column of the table lists provisions in the Act that prescribe time limits that a consent authority must comply with when processing or determining an application for a resource consent. The second column of the table lists provisions that require certain time periods to be excluded from the time limits in the first column. The table is updated to reflect that the period during which a non-notified application is suspended under *new section 91D* must be excluded from the time limit in section 95.

*Clause 19(2)* amends section 88B to provide that any time period that the consent authority decides to exclude under *new section 88H* must be excluded from the time limit described in section 95.

*Clause 20* makes a minor amendment to section 88E.

*Clause 21* inserts *new sections 88G and 88H*.

*New section 88G* prescribes the period that must be excluded from every applicable time limit under section 88B, if the processing of a non-notified application is suspended under *new section 91D*.

*New section 88H* relates to administrative charges (fixed under section 36) that an applicant must pay on lodgement or on notification of a resource consent application. *New section 88H* enables the consent authority to exclude from the time limit described in section 95 the period during which an applicant has failed to pay an administrative charge.

*Clauses 22 to 24* amends sections 91A to 91C to clarify that those provisions apply to notified applications in contrast to *new sections 91D to 91F*, which apply to non-notified applications.

*Clause 25* inserts *new sections 91D to 91F*, which relate to the suspension of processing by a consent authority of a non-notified application at the request of an applicant. *New sections 91D to 91F* are based on the provisions in sections 91A to 91C in relation to notified applicants. However, if the processing of a non-notified application has been suspended for a total of 20 working days, the consent authority must either return the application to the applicant or continue to process the application. The period of any suspension must be excluded from every applicable time limit in section 88B.

*Clause 26* amends section 95A, which states how a consent authority must determine whether to publicly notify an application for a resource consent. Currently, an application for a restricted discretionary or discretionary activity is precluded from public notification if the activity is a subdivision of land or a residential activity. The amendment removes that preclusion. Section 95A(5)(b)(iv) is repealed because section 360H is repealed.

*Clause 27* amends section 95B because section 360H is repealed.

*Clause 28* amends section 120 by removing—

- the restrictions on appeals against decisions relating to subdivisions and residential activities; and
- the requirement that submitters may appeal only on matters raised in their submission.

*Clause 29(1)* replaces section 128(1)(b) to enable a consent authority to review a coastal, water, or discharge permit, or a land use consent granted by a regional council if—

- a regional plan contains a rule that relates to maximum or minimum levels or flows or rates of use of water, or minimum standards of water quality or air quality, or ranges of temperature or pressure of geothermal water; and
- the rule, the plan, or the part of the plan that contains the rule has been made operative; and



- the regional council considers it is appropriate to review the conditions of the permit or consent in order to enable the levels, flows, rates, or standards set by the rule to be met.

*Clause 29(2) and (3)* amends section 128 to enable a consent authority to review the conditions of resource consents together if those consents are affected by a rule referred to in section 128(1)(b).

*Clause 30* amends 129 to require a consent authority to advise a consent holder that the authority intends to review the conditions of the resource consent alongside other resource consents affected by a rule referred to in section 128(1)(b).

*Clause 31* amends section 149P to restrict conditions that a board of inquiry may impose when considering a notice of requirement for a designation. If the requiring authority is the Minister of Education, a board may not compose a condition requiring a financial contribution.

*Clause 32* makes a similar amendment as that made by *clause 31* in relation to the conditions that may be imposed by the Environment Court under section 149U.

*Clause 33* amends section 170 as a result of the removal of the collaborative planning process.

*Clause 34* amends section 171 to provide that if the requiring authority is the Minister of Education, a territorial authority may not impose a condition requiring a financial contribution.

*Clause 35* makes a similar amendment to that in *clause 34* in relation to the conditions that may be imposed by the Environment Court under section 174.

*Clause 36* makes a minor consequential amendment to section 248.

*Clause 37* amends section 249 to enable an acting District Court Judge, an acting Maori Land Court Judge, and a retired Environment Judge to be eligible for appointment as an alternate Environment Judge.

*Clause 38* amends section 250 to facilitate the appointment of acting District Court Judges and acting Maori Land Court Judges as Environment Judges or alternate Environment Judges.

*Clauses 39 and 40* replace references to Principal Environment Judge with Chief Environment Judge in sections 250A and 250B.

*Clause 41* inserts *new section 250AA*, which enables retired Environment Judges to be appointed as alternate Environment Judges.

*Clauses 42 to 46* replace references to Principal Environment Judge with Chief Environment Judge in sections 251 to 259.

*Clause 47* amends section 261 to confer immunity from legal proceedings on special advisors when acting in good faith in the performance of their duties.

*Clauses 48 to 53* replace references to Principal Environment Judge with Chief Environment Judge in sections 265 to 288B.

*Clauses 54 to 59* amend sections 311, 316, 324, 325, 325A, and 325B as a consequence of the EPA's new enforcement functions. The amendments enable the EPA to carry out certain enforcement activities that a local authority is permitted to carry out.

*Clause 60* amends section 330B, which allows certain activities (which would otherwise contravene sections 9, 12, 13, 14, and 15) to be carried out during a state of emergency declared under the Civil Defence Emergency Management Act 2002. The amendment enables the person authorising the activity to apply to the appropriate consent authority within 60 working days (instead of 20 working days) to obtain the necessary resource consents for the activity.

*Clauses 61 and 62* amend sections 332 and 336 as a consequence of the EPA's new enforcement functions. The amendments enable the EPA to carry out certain enforcement activities that a local authority is permitted to carry out.

*Clause 63* extends the limitation period in section 338(4) in respect of an offence against certain provisions of the Act. The limitation period is extended from 6 to 12 months after the date on which the contravention giving rise to the offence becomes known.

*Clauses 64 and 65* amend sections 339C and 342, which relate to the payment of fines when the EPA is assisting a local authority in a proceeding.

*Clause 66* amends section 343D to require any infringement fee relating to an infringement notice issued by the EPA to be credited to a Crown Bank Account.

*Clause 67* inserts *new Part 12A*, which provides for the EPA's new enforcement functions.

*New section 343E* defines terms used in *new Part 12A*. A key term is the definition of enforcement action, which means—

- an inspection, investigation, or other activity carried out in accordance with the Act for the purpose of determining whether there is or has been—
  - a contravention of a provision of the Act, any regulations, a rule in a plan, a national environmental standard, or a resource consent; or
  - a failure to comply with a requirement of an enforcement order or abatement notice; or
- an application for an enforcement under section 316 or an interim enforcement order under section 320; or
- the service of an abatement notice under section 322; or
- the laying of a charge relating to an offence described in section 338; or
- the issuing of an infringement notice under section 343C; or
- an inspection, investigation, other activity carried out in accordance with this Act for the purpose of an application, an abatement notice, a charge, or an infringement notice described above.

*New section 343F* enables the EPA to perform any of the following enforcement functions if satisfied that performing the function is necessary or desirable to promote the purpose of the Act:

- the EPA may take enforcement action and any subsequent action in relation to an incident if the local authority has not commenced taking any enforcement action in relation to the same incident;
- the EPA may, with the agreement of a local authority, assist the local authority with an enforcement action in relation to an incident and any subsequent action;
- the EPA may intervene in an enforcement action of a local authority in relation to an incident by taking over the enforcement action and taking any subsequent action.

*New section 343G* applies when the EPA intervenes in an enforcement action of a local authority. The EPA may not intervene in an enforcement action that has already been executed by a local authority in respect of a person.

*New section 343H* enables the EPA to change its enforcement function in relation to an incident if it considers that the circumstances require the change in function.

*New section 343I* provides for the appointment of EPA enforcement officers.

*New section 343J* enables the EPA to require information from a local authority that the EPA requires for an enforcement action.

*New section 343K* states matters that the EPA must provide in its annual report required under section 150 of the Crown Entities Act 2004.

*New section 343L* enables the court to order a person convicted of an offence under the Act to pay the EPA's costs relating to the prosecution.

*Clauses 68 and 69* amend sections 353 and 355B as a consequence of the EPA's new enforcement functions.

*Clause 70* consequentially amends section 357.

*Clause 71* amends section 360(1) in relation to infringement fees, forms, and notices for infringement offences prescribed under that section.

Currently, section 360(1)(bb) enables regulations to prescribe an infringement fee not exceeding \$2,000 for infringement offences prescribed under section 360(1)(ho)(exclusion of stock from water-bodies). An infringement fee not exceeding \$1,000 may be prescribed for other infringement offences.

Section 360(1)(bb) is replaced with a provision that enables regulations to prescribe in respect of any infringement offence prescribed under that section, an infringement fee—

- not exceeding \$2,000, in the case of a natural person; and
- not exceeding \$4,000, for a person other than a natural person.

*Clause 72* repeals sections 360D, 360E, 360G, and 360H. Sections 360D and E enable regulations to prohibit or remove rules that duplicate, overlap with, or deal

with subject matter already included in other legislation. Sections 360G and H enable regulations to prescribe matters relating to a consent authority's identification of—

- fast-track applications; and
- activities that are to be precluded from public notification or limited notification; and
- who may be considered an affected person in respect of an application of a resource consent.

*Clause 73* amends Schedule 1 by—

- repealing clauses 4(2) to (2B), 14, and 21(3A); and
- replacing Part 4 with a *new Part 4* which relates to the freshwater planning process that all freshwater planning instruments must undergo.

*New Part 4* of Schedule 1, among other things—

- requires that a regional council must, no later than 6 months after it has publicly notified a freshwater planning instrument, submit specified documents to the Chief Freshwater Hearings Commissioner (**Chief Commissioner**); and
- requires the Chief Commissioner to convene a freshwater hearings panel to hear public submissions on the freshwater planning document; and
- provides for the membership, functions, and powers of the freshwater hearings panel; and
- requires the freshwater hearings panel to make recommendations to the regional council after the hearing of public submissions on the freshwater planning instrument; and
- requires the regional council to publicly notify its response to those recommendations; and
- sets out appeals that may be made in relation to the freshwater planning instrument; and
- provides for the appointment by the Minister of freshwater hearing commissioners including the Chief Commissioner.

*Clause 74* amends Schedule 12 to provide for transitional matters as a result of the changes made by this Bill.

## Part 2

### Amendments to other enactments

#### Subpart 1—Amendments to Resource Management Legislation Amendment Act 2017

*Clause 75* provides this subpart amends the Resource Legislation Amendment Act 2017.

*Clause 76* repeals section 2(2).

*Clause 77* repeals subpart 3 of Part 1.

*Clause 78* repeals Schedules 4 and 5.

#### Subpart 2—Consequential amendments to other enactments

*Clause 79* provides for the consequential amendments to enactments as set out in the *Schedule*.



*Hon David Parker*

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

**1 Title**

This Act is the Resource Management Amendment Act **2019**.

**2 Commencement**

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

- (2) **Sections 22 and 24** come into force on the day that is 3 months after the date on which this Act receives the Royal assent.

## Part 1

### Amendments to Resource Management Act 1991

#### 3 Amendments to Resource Management Act 1991

**This Part** amends the Resource Management Act 1991 (the **principal Act**).

#### 4 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in its appropriate alphabetical order:
- alternate Environment Judge** means a person appointed as an alternate Environment Judge under section 250(1) or **250AA**
- (2) In section 2(1), repeal the definition of **collaborative planning process**.
- (3) In section 2(1), replace the definition of **enforcement officer** with:
- enforcement officer**,—
- (a) other than in sections 327, 328, and 333, means an enforcement officer appointed under section 38 or **343I**; and
- (b) in sections 327, 328, and 333 means an enforcement officer appointed under section 38
- (4) In section 2(1), replace the definition of **fresh water** with:
- freshwater** or **fresh water** means all water except coastal water and geothermal water

#### 5 Section 4 amended (Act to bind the Crown)

- (1) In section 4(6)(b), after “authority”, insert “or the EPA”.
- (2) In section 4(9)(c)(i), after “authority”, insert “, the EPA,”.

#### 6 Section 11 amended (Restrictions on subdivision of land)

- (1) Replace section 11(1)(a) with:
- (a) 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, is 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
- (2) Repeal section 11(1A).
- 7 Section 39 amended (Delegation of functions by Ministers)**

In section 29(1)(l), replace “Principal Environment Judge” with “Chief Environment Judge”.
- 8 Section 38 amended (Authorisation and responsibilities of enforcement officers)**
  - (1) In section 38(5), after “officer”, insert “authorised under this section”.
  - (2) In section 38(6), after “officer”, insert “authorised under this section”.
- 9 Section 42C amended (Functions of EPA)**

Replace section 42C(f) with:

  - (f) to perform the enforcement functions conferred by **section 343F**; and
  - (g) to exercise any other functions specified in this Act.
- 10 Section 46A amended (Single process for preparing national directions)**
  - (1) In section 46A(1), (2), and (3), replace “51” with “52”.
  - (2) In section 46A(7), replace “360H” with “360C”.
- 11 Section 48 amended (Public notification of proposal for national direction and inquiry)**

In section 48(1)(a), replace “policy statement” with “direction”.
- 12 Section 51A amended (Withdrawal of proposed national policy statement)**
  - (1) In the heading to section 51A, replace “**policy statement**” with “**direction**”.
  - (2) Replace section 51A(1) with:
    - (1) The Minister may withdraw all or part of—
      - (a) a proposed national policy statement before the statement is approved under section 52(2); or
      - (b) a proposed national environmental standard at any time before regulations are made under section 43 giving effect to the standard.
- 13 Section 52 amended (Consideration of recommendations and approval or withdrawal of statement)**
  - (1) In the heading to section 52, replace “**statement**” with “**national direction**”.
  - (2) In section 52(1), replace “policy statement” with “direction”.
  - (3) In section 52(1)(b)(i) and (ii), replace “policy statement” with “direction”.

- (4) In section 52(1)(c), after “must”, insert “, in the case of a national policy statement,”.

**14 Subpart 4 of Part 5 repealed (Collaborative planning process)**

Repeal subpart 4 of Part 5.

**15 Section 80C amended (Application to responsible Minister for direction)**

Repeal section 80C(4)(b).

**16 New subpart 5A of Part 5 inserted**

After section 80C, insert:

**Subpart 5A—Freshwater planning process**

**80D Freshwater planning process**

- (1) In this subpart and **Part 4 of Schedule 1**, a **freshwater planning instrument** means—
- (a) a proposed regional plan or regional policy statement for the purpose of giving effect to a national policy statement on freshwater management;
  - (b) a proposed regional plan or regional policy statement that relates to freshwater (other than for the purpose described in **paragraph (a)**);
  - (c) a change or variation to a proposed regional plan or regional policy statement if the change or variation—
    - (i) is for the purpose described in **paragraph (a)**; or
    - (ii) otherwise relates to freshwater.
- (2) A freshwater planning instrument—
- (a) must be prepared in accordance with clauses 1, 1A, 1B, 2(1), 3 to 3C, 4A, 5, 6, 7(1) and (2), and 8 to 8A of Schedule 1; and
  - (b) must, if its purpose is to give effect to a national policy statement on freshwater management issued in 2020, be publicly notified in accordance with clause 5 of Schedule 1 by 31 December 2023; and
  - (c) must, no later than 6 months after it has been publicly notified, start to undergo the freshwater planning process set out in **subpart 1 of Part 4 of Schedule 1**.
- (3) The following is an outline of the freshwater planning process:
- (a) the regional council must submit all required documents relating to the freshwater planning instrument to the Chief Commissioner:
  - (b) the Chief Commissioner must then convene a freshwater hearings panel to conduct the public hearing of submissions on the freshwater planning instrument:

- (c) the freshwater hearings panel must, after the public hearing of submissions is concluded, make recommendations to the regional council on the freshwater planning instrument:
- (d) the regional council may accept or reject any recommendation. (However,—
  - (i) the regional council must provide reasons for rejecting a recommendation; and
  - (ii) a person who made a submission on the freshwater planning instrument may make an appeal (in accordance with **Part 4 of Schedule 1**) in respect of the regional council’s decision to reject a recommendation.)
- (4) After the regional council publicly notifies its decisions on the freshwater hearings panel’s recommendations, clauses 5, 16, 17, 20, and Parts 2 and 3 of Schedule 1 apply.
- (5) In **subsection (1)**, a proposed regional plan does not include a proposed regional coastal plan or a change or variation to that plan.
- (6) Section 37(1)(a) does not apply to any time period specified in this section or **Part 4 of Schedule 1**.
- (7) To avoid doubt, a provision in Parts 1 to 3 or Part 5 of Schedule 1 does not apply except as expressly applied by this section or a provision in **Part 4 of Schedule 1**.

#### 17 Section 87AAC amended (Meaning of fast-track application)

Replace section 87AAC(1) with:

- (1) An application is a **fast-track application** if the application—
  - (a) is for a resource consent for a controlled activity (but no other activity) that requires consent under a district plan (other than a subdivision of land); and
  - (b) includes an address for service that is an electronic address.

#### 18 Section 88 amended (Making an application)

- (1) Replace section 88(2)(b) and (c) with:
  - (b) include the information relating to the activity, including an assessment of the activity’s effects on the environment, that is required by Schedule 4.
- (2) In section 88(3)(b), delete “or (c) (as applicable)”.

#### 19 Section 88B amended (Time limits from which time periods are excluded in relation to applications)

- (1) In section 88B(3), table, item relating to section 95, second column, below “Section 88F(2)”, insert “**Section 88G**”.

(2) After section 88B(3), insert:

(4) If a consent authority decides under **section 88H** to exclude a time period because of non-payment of administrative charges, the time period described in **section 88H(2)** must be excluded from the time limit described in section 95.

**20 Section 88E amended (Excluded time periods relating to other matters)**

In section 88E, heading above subsection (7), replace “*application processing*” with “*processing of notified application*”.

**21 New sections 88G and 88H inserted**

After section 88F, insert:

**88G Exclusion of period when processing of non-notified application suspended**

(1) **Subsection (2)** applies when a non-notified application is suspended under **section 91D**.

(2) The period that must be excluded from every applicable time limit under section 88B is the period—

- (a) starting from the date on which the suspension started; and
- (b) ending on the date on which the suspension ceased.

**88H Excluded time periods relating to non-payment of administrative charges**

(1) **Subsection (2)** applies if—

- (a) an application for a resource consent is lodged with a consent authority; and
- (b) a charge fixed under section 36 is payable when the application is lodged or when the application is notified by the consent authority under section 95; and
- (c) the applicant does not pay the charge when it is payable.

(2) The consent authority may exclude from every applicable time limit in section 95, the period—

- (a) starting from the date on which payment is due; and
- (b) ending on the date on which payment is made.

**22 Section 91A amended (Applicant may have processing of application suspended)**

In the heading to section 91A, after “of”, insert “notified”.

**23 Section 91B amended (When suspension of processing cease)**

In the heading to section 91B, after “processing”, insert “of notified application”.

**24 Section 91C amended (Application may be returned if suspended after certain period)**

In the heading to section 91C, replace “**Application**” with “**Notified application**”.

**25 New sections 91D to 91F inserted**

After section 91C, insert:

**91D Applicant may have processing of non-notified application suspended**

- (1) A consent authority must suspend the processing of a non-notified application when a request is received in accordance with this section.
- (2) The applicant may request the consent authority to suspend the processing of a non-notified application at any time in the period—
  - (a) starting on the date that the application is first lodged with the authority; and
  - (b) ending when—
    - (i) the hearing is completed, if a hearing is held for the application; or
    - (ii) the consent authority gives notice to the applicant of its decision on the application, if a hearing is not held for the application; or
    - (iii) the application is notified.
- (3) However, a request must not be made if—
  - (a) the applicant has lodged a notice of motion with the Environment Court under section 87G(2)(a); or
  - (b) the Minister has made a direction under section 142(2) in relation to the application; or
  - (c) a total of 20 working days have been excluded from time limits under section 88B as a result of any previous request under this section in relation to the application.
- (4) The request must be made by written or electronic notice.
- (5) If processing is suspended under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension started.

**91E When suspension of processing of non-notified application ceases**

- (1) A consent authority must cease to suspend the processing of a non-notified application when—
  - (a) a request is received in accordance with this section; or
  - (b) the applicant lodges a notice of motion with the Environment Court under section 87G(2)(a); or



- (c) the Minister makes a direction under section 142(2) in relation to the application; or
- (d) the consent authority decides under **section 91F** to continue to process the application.
- (2) The applicant may request the consent authority to cease to suspend the processing of a non-notified application if it is currently suspended.
- (3) The request must be made by written or electronic notice.
- (4) If a suspension is ceased under this section, the consent authority must give written or electronic notice to the applicant specifying the date on which the suspension ceased.

**91F Non-notified application may be returned after certain period**

- (1) **Subsection (2)** applies if the processing of the non-notified application has been suspended for a total of 20 working days in response to 1 or more requests under **section 91D**.
- (2) The consent authority must decide to—
  - (a) return the application to the applicant; or
  - (b) continue to process the application.
- (3) If the consent authority decides to return the application,—
  - (a) it must be returned together with a written explanation as to why it is being returned; but
  - (b) the applicant may object to the consent authority under section 357(3A).
- (4) If, after an application has been returned, the application is lodged again with the consent authority, the application is to be treated as a new application.

**26 Section 95A amended (Public notification of consent applications)**

- (1) Repeal section 95A(5)(b)(ii) and (iv).
- (2) Repeal section 95A(6).

**27 Section 95B amended (Limited notification of consent applications)**

- (1) Replace section 95B(6)(b) with:
  - (b) the application is for a controlled activity (but no other activities) that requires a resource consent under a district plan (other than a subdivision of land).
- (2) Replace section 95B(7) with:
- (7) In the case of a boundary activity, determine in accordance with section 95E whether an owner of an allotment with an infringed boundary is an affected person.

**28 Section 120 amended (Right to appeal)**

Replace section 120(1A) and (1B) with:

- (1A) However, there is no right of appeal under this section against the whole or any part of a decision of a consent authority referred to in subsection (1) to the extent that the decision relates to a boundary activity, unless the boundary activity is a non-complying activity.
- (1B) A person exercising a right of appeal under subsection (1)(b) is not confined to matters raised in the person's submission (excluding any part of the submission that is struck out under section 41D).

**29 Section 128 amended (Circumstances when consent conditions can be reviewed)**

- (1) Replace section 128(1)(b) with:

- (b) in the case of a coastal, water, or discharge permit, or a land use consent granted by a regional council, if—
  - (i) a regional plan contains a rule that relates to maximum or minimum levels or flows or rates of use of water, or minimum standards of water quality or air quality, or ranges of temperature or pressure of geothermal water; and
  - (ii) the rule, the plan, or the part of the plan that contains the rule has been made operative; and
  - (iii) the regional council considers that it is appropriate to review the conditions of the permit or consent in order to enable the levels, flows, rates, or standards set by the rule, the plan, or the part of the plan to be met; or

- (2) After section 128(1)(c), insert:

- (d) if the review is part of a review carried out under **subsection (2A)**.

- (3) After section 128(2), insert:

- (2A) If more than 1 resource consent is affected by the rule referred to in **section 128(1)(b)(i)**, the consent authority may review the conditions of those resource consents together for the purpose of managing the effects of the activities carried out under those resource consents.

**30 Section 129 amended (Notice of review)**

After section 129(1)(e), insert:

- (f) must, if **section 128(2A)** applies, advise that the consent authority intends to review the conditions of the resource consent together with its review of the conditions of other resource consents that are also affected by the rule referred to in **section 128(1)(b)(i)**.

**31 Section 149P amended (Consideration of matter by board)**

After section 149P(4), insert:

- (4A) However, if the requiring authority is the Minister of Education, a board of inquiry may not recommend imposing a condition under subsection (4) requiring a financial contribution (as defined in section 108(9)).

**32 Section 149U amended (Consideration of matter by Environment Court)**

After section 149U(4), insert:

- (4A) However, if the requiring authority is the Minister of Education, the Environment Court may not impose a condition under subsection (4)(b)(iii) requiring a financial contribution (as defined in section 108(9)).

**33 Section 170 amended (Discretion to include requirement in proposed plan)**

- (1) In section 170(2), delete “(4),”.
- (2) Replace section (2)(b) and (c) with:
  - (b) seek the consent of the requiring authority to use that planning process for considering the requirement.
- (3) Repeal the cross-heading above section 170(3).
- (4) Repeal section 170(3) to (6).

**34 Section 171 amended (Recommendation by territorial authority)**

After section 171(2), insert:

- (2A) However, if the requiring authority is the Minister of Education, a territorial authority may not recommend imposing a condition requiring a financial contribution (as defined in section 108(9)).

**35 Section 174 amended (Appeals)**

After section 174(4), insert:

- (5) However, if the requiring authority is the Minister of Education, the Environment Court may not impose a condition requiring a financial contribution (as defined in section 108(9)).

**36 Section 248 amended (Membership of Environment Court)**

In section 248(a), after “250”, insert “or **250AA**”.

**37 Section 249 amended (Eligibility for appointment as an Environment Judge or alternate Environment Judge)**

In section 249(2), replace “District Court Judge or a Maori Land Court Judge” with “District Court Judge, an acting District Court Judge, a Maori Land Court Judge, or an acting Maori Land Court Judge or **section 250AA** applies”.

**38 Section 250 amended (Appointment of Environment Judges and alternate Environment Judges)**

- (1) In section 250(1), replace “appoint a person as an Environment Judge or an alternate Judge” with “appoint as an Environment Judge or an alternate Environment Judge, a person who holds office as a District Court Judge, an acting District Court Judge, a Maori Land Court Judge, or an acting Maori Land Court Judge”.
- (2) In section 250(2), after “A person”, insert “appointed under subsection (1)”.
- (3) In section 250(2), replace “District Court Judge or Maori Land Court Judge,” with “District Court Judge, an acting District Court Judge, a Maori Land Court Judge, or an acting Maori Land Court Judge”.

**39 Section 250A amended (Appointment of acting Principal Environment Judge)**

In section 250A(1) and (2), replace “Principal Environment Judge” with “Chief Environment Judge”.

**40 Section 250B amended (Protocol relating to activities of Judges)**

In section 250B(2), replace “Principal Environment Judge” with “Chief Environment Judge”.

**41 New section 250AA inserted (Appointment of retired Environment Judges as alternate Environment Judges)**

After section 250, insert:

**250AA Appointment of retired Environment Judges as alternate Environment Judges**

- (1) The Governor-General may, on the recommendation of the Attorney-General, appoint a retired Environment Judge under the age of 75 years as an alternate Environment Judge.
- (2) The Attorney-General may recommend an appointment only after the Chief Environment Judge certifies that the appointment is necessary for the proper conduct of the Environment Court.
- (3) When acting as an Environment Judge, an alternate Environment Judge appointed under this section also has the jurisdiction, powers, protections, and privileges of a District Court Judge under the District Court Act 2016.
- (4) A retired Environment Judge—
  - (a) may be appointed as an alternate Environment Judge for a term of not more than 2 years and may be reappointed for 1 or more terms; but
  - (b) must not be appointed—
    - (i) for a term that extends beyond the date on which the Judge reaches the age of 75 years; or

(ii) for multiple terms collectively totalling more than 5 years.

**42 Section 251 amended (Principal Environment Judge)**

- (1) Replace the heading to section 251 with “**Chief Environment Judge**”.
- (2) In section 251(1) and (2), replace “Principal Environment Judge” with “Chief Environment Judge”.

**43 Section 251A amended (Appointment of acting Principal Environment Judge)**

- (1) In the heading to section 251A, replace “**Principal Environment Judge**” with “**Chief Environment Judge**”.
- (2) In section 251A(1)(a) and (b), (2), and (3)(a) and (b), replace “Principal Environment Judge” with “Chief Environment Judge” in each place.

**44 Section 252 amended (When an alternate Environment Judge may act)**

In section 252(1), replace “Principal Environment Judge” with “Chief Environment Judge”.

**45 Section 255 amended (When a Deputy Environment Commissioner may act)**

In section 255(1)(b), replace “Principal Environment Judge” with “Chief Environment Judge”.

**46 Section 259 amended (Special advisors)**

In section 259(1), replace “Principal Environment Judge” with “Chief Environment Judge”.

**47 Section 261 amended (Protection from legal proceedings)**

After section 261(3), insert:

- (4) No action lies against a special advisor appointed under section 259 for anything the special advisor says or does, or omits to say or do, while acting in good faith in the performance of the special advisor’s duties.

**48 Section 265 amended (Environment Court sittings)**

In section 265(1)(c), replace “Principal Environment Judge” with “Chief Environment Judge”.

**49 Section 279 amended (Powers of Environment Judge sitting alone)**

In section 279(2)(a) and (5)(a) and (b), replace “Principal Environment Judge” with “Chief Environment Judge”.

**50 Section 280 amended ( Powers of Environment Commissioner sitting without Environment Judge)**

In section 280(1), replace “Principal Environment Judge” with “Chief Environment Judge” in each place.

**51 Section 281 amended (Waivers and directions)**

In section 281(5), replace “Principal Environment Judge” with “Chief Environment Judge” in each place.

**52 Section 288A amended ( Information regarding reserved judgments)**

In section 288A, replace “Principal Environment Judge” with “Chief Environment Judge”.

**53 Section 288B amended ( Recusal guidelines)**

In section 288B, replace “Principal Environment Judge” with “Chief Environment Judge”.

**54 Section 311 amended (Application for declaration)**

In section 311(2), after “consent authority”, insert “, the EPA,”.

**55 Section 316 amended (Application for enforcement order)**

(1) Replace section 316(2) with:

(2) An application may at any time be made in the prescribed form to the Environment Court by—

- (a) a local authority, a consent authority, or the EPA for an enforcement order of the kind specified in section 314(1)(da); and
- (b) a local authority or consent authority for an enforcement order of the kind specified in section 314(1)(e).

(2) In section 316(5), after “consent authority”, insert “, the EPA,”.

**56 Section 324 amended (Form and content of abatement notice)**

(1) In section 324(g), replace “the local authority”, with “an enforcement officer”.

(2) In section 324(h), after “notice”, insert “or the address of the EPA, if the notice is issued by an enforcement officer appointed by the EPA”.

**57 Section 325 amended (Appeals)**

(1) In section 325(2)(c), replace “local authority or consent authority whose decision is appealed” with “relevant authority (whose abatement notice is appealed against)”.

(2) In section 325(3B)(c), replace “local authority or consent authority” with “relevant authority”.

- (3) In section 325(3D)(ii), replace “local authority or consent authority” with “relevant authority”.
- (4) In section 325(3F), replace “local authority or consent authority” with “relevant authority”.
- (5) After section 325(6), insert:
- (7) In this section, **relevant authority** means the local authority, the consent authority, or the EPA.

**58 Section 325A amended (Cancellation of abatement notice)**

Replace section 325A(1) with:

- (1) In this section, **relevant authority** means any of the following which or who authorised the enforcement officer who issued the abatement notice:
  - (a) the local authority:
  - (b) the Minister of Conservation:
  - (c) the EPA.

**59 Section 325B amended (Restrictions on certain applications for enforcement orders and abatement notices)**

In section 325B(2), replace “or a consent authority” with “a consent authority, or the EPA”.

**60 Section 330B amended (Emergency works under Civil Defence Emergency Management Act 2002)**

In section 330B(3), replace “20 working days” with “60 working days”.

**61 Section 332 amended (Power of entry for inspection)**

In section 332(1), replace “or consent authority” with “, consent authority, or by the EPA”.

**62 Section 336 amended (Return of property seized under sections 323 and 328)**

- (1) In section 336(1), replace “local authority, consent authority,” with “relevant authority”.
- (2) In section 336(2), replace “local authority, consent authority,” with “relevant authority”.
- (3) In section 336(2)(b), replace “local authority, consent authority,” with “relevant authority”.
- (4) In section 336(3), replace “local authority, consent authority,” with “relevant authority”.
- (5) In section 336(5), replace “local authority, the consent authority,” with “relevant authority”.

(6) After section 336(6), insert:

(7) In this section, **relevant authority** means the local authority, the consent authority, or the EPA.

**63 Section 338 amended (Offences against this Act)**

In section 338(4), replace “6 months” with “12 months”.

**64 Section 339C amended (Amount of fine or other monetary penalty recoverable by distress and sale of ship or from agent)**

After section 339C(2), insert:

(2A) For the purpose of subsection (2), any proceedings in relation to the offence that were commenced by or on behalf of a local authority include any proceedings in which the EPA was assisting the local authority (*see section 343F(b)*).

**65 Section 342 amended (Fines to be paid to local authority instituting prosecution)**

After section 342(5), insert:

(6) If the court orders the payment of a fine for an offence prosecuted by the EPA acting under **section 343F(b)**,—

- (a) 10% of the fine must be credited to a Crown Bank Account; and
- (b) the balance of the fine must be credited to the local authority that the EPA was assisting.

**66 Section 343D amended (Entitlement to infringement fees)**

In section 343D, insert as subsection (2):

(2) However, any infringement fee relating to an infringement notice issued by an enforcement officer appointed by the EPA must be paid into a Crown Bank Account.

**67 New Part 12A inserted**

After section 343D, insert:

**Part 12A**  
**Enforcement functions of EPA**

**343E Terms used in this Part**

(1) In this Part,—

**enforcement action** means—

- (a) an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of determining whether there is or has been—



- (i) a contravention of a provision of this Act, any regulations, a rule in a plan, a national environmental standard, or a resource consent; or
- (ii) a failure to comply with a requirement of an enforcement order or abatement notice; or
- (b) an application for an enforcement order under section 316; or
- (c) an application for an interim enforcement order under section 320; or
- (d) the service of an abatement notice under section 322; or
- (e) the laying of a charge relating to an offence described in section 338; or
- (f) the issuing of an infringement notice under section 343C; or
- (g) an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of an enforcement action described in **paragraphs (b) to (f)**

**enforcement function** means a function of the EPA described in **section 343F**

**incident** means an occurrence that may, directly or indirectly, be linked to—

- (a) a contravention or possible contravention of a provision in accordance with this Act, any regulations, a rule in a plan, a national environmental standard, or a resource consent; or
- (b) a failure or possible failure to comply with a requirement of an enforcement order or an abatement notice

**subsequent action**—

- (a) means a prosecution, proceeding, application, or other activity that the EPA or a local authority may carry out under this Act in relation to an enforcement action that has been executed; and
  - (b) includes an inspection, investigation, or other activity carried out in accordance with this Act for the purpose of an activity described in **paragraph (a)**.
- (2) In **paragraph (a)** of the definition of enforcement action in **subsection (1)**, **other activity** includes, without limitation, an application for a declaration under section 311.
- (3) In this Part, an enforcement action is **executed** when, as the case may be, the application for the enforcement order or interim order is made, the abatement notice is served, the charge is laid, or the infringement notice is issued.

### **343F Enforcement functions of EPA**

The EPA may perform any of the following enforcement functions if satisfied that the performance of the function is necessary or desirable to promote the purpose of this Act:

- (a) the EPA may take an enforcement action and any subsequent action in relation to an incident if the local authority has not commenced taking any enforcement action in relation to the same incident:
- (b) the EPA may, with the agreement of a local authority, assist the local authority with an enforcement action in relation to an incident and any subsequent action:
- (c) the EPA may intervene in an enforcement action of a local authority in relation to an incident by taking over the enforcement action and taking any subsequent action.

### **343G Intervention by EPA**

- (1) If the EPA intervenes in an enforcement action of a local authority in relation to an incident,—
  - (a) the EPA must notify the chief executive of the local authority in writing of the incident to which the intervention relates and the date the intervention takes effect; and
  - (b) the local authority must, on receipt of the notice, cease its enforcement action; and
  - (c) the EPA takes over the enforcement action from the date specified in the notice; and
  - (d) only the EPA may take any enforcement action or subsequent action in relation to the incident unless **subsection (3)** applies.
- (2) When intervening in an enforcement action of a local authority, the EPA must not intervene in relation to an enforcement action that the local authority has already executed in respect of a person.
- (3) If the EPA decides to cease its intervention,—
  - (a) it must notify the chief executive of the local authority in writing of its decision and the date it takes effect; and
  - (b) the local authority may take an enforcement action or subsequent action in relation to the incident from the date specified in the notice.
- (4) To avoid doubt, **subsection (2)** does not prevent the EPA from taking an enforcement action in relation to another incident in respect of the same person.

### **343H EPA may change enforcement functions**

- (1) The EPA may change its enforcement function in relation to an incident to another function described in **section 343F** if the EPA considers that the circumstances require it.
- (2) If the EPA decides to change to an intervention function described in **section 343F(c)**, it must include its reasons for the change in the notice required under **section 343G(1)**.

**343I Appointment of EPA enforcement officers**

- (1) The EPA may appoint a person described in **subsection (2)** to be an enforcement officer for the purpose of carrying out its enforcement functions under this Act.
- (2) A person is eligible for appointment as an enforcement officer if the person—
  - (a) has appropriate experience, technical competence, and qualifications relevant to the area of responsibilities proposed to be allocated to the person; or
  - (b) is an employee of the EPA who is suitably qualified and trained.
- (3) The EPA must supply each enforcement officer with a warrant that—
  - (a) states the full name of the person; and
  - (b) includes a summary of the powers conferred on the person under this Act.
- (4) An enforcement officer may exercise the powers under this Act, in accordance with his or her warrant, only for the purposes for which he or she was appointed.
- (5) An enforcement officer exercising a power under this Act must have with him or her, and must produce if required to do so, his or her warrant and evidence of his or her identity.
- (6) An enforcement officer who holds a warrant issued under this section must, on the termination of the officer's appointment, surrender the warrant to the EPA.

Compare: 2012 No 72 ss 138, 139

**343J EPA may require information from local authority**

- (1) The EPA may require a local authority to provide information that the EPA requires for taking an enforcement action in relation to an incident.
- (2) The EPA must notify the chief executive of the local authority in writing and specify the incident for which information is required.
- (3) A local authority must provide the specified information to the EPA as soon as is reasonably practicable, but no later than 10 working days after the chief executive is notified.

**343K Additional reporting requirements**

- (1) The annual report of the EPA under section 150 of the Crown Entities Act 2004 must include information about the performance of the EPA's enforcement functions, including the number and type of enforcement actions executed by the EPA.
- (2) The EPA is not required to provide information under **subsection (1)** that would prejudice the maintenance of law, including the prevention, investigation, or detection of offences, or the right to a fair trial.

**343L Order for payment of EPA's costs in bringing a prosecution**

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

Compare: 2015 No 70 s 152

**68 Section 353 amended (Notices and consents in relation to Maori land)**

In section 353, after “local authority”, insert “or the EPA”.

**69 Section 355B amended (Enforcement powers against unlawful reclamations)**

- (1) In section 355B(1), replace “and a regional council” with “, a regional council, and the EPA”.
- (2) In section 355B(2), replace “or a regional council” with “, a regional council, or the EPA”.
- (3) In section 355B(3), replace “or a regional council” with “, a regional council, and the EPA”.

**70 Section 357 amended (Right of objection against certain decisions)**

In section 357(3A), after “section 91C(2)”, insert “or **91F(2)**”.

**71 Section 360 amended (Regulations)**

Replace section 360(1)(bb) and (bc) with:

- (bb) prescribing infringement fees (which may be different fees for different offences)—
- (i) not exceeding \$2,000, in the case of a natural person, for an infringement offence prescribed under this subsection:
  - (ii) not exceeding \$4,000, in the case of a person other than a natural person, for an infringement offence prescribed under this subsection:
  - (iii) not exceeding \$100 per stock unit for each infringement offence prescribed under paragraph (ho) that is differentiated on the basis of the number of stock units, to a maximum fee of—
    - (A) \$2,000 for each infringement offence in the case of a natural person; and

- (B) \$4,000 for each infringement offence in the case of a person other than a natural person:
- (bc) prescribing, in relation to infringement offences against this Act, the form and content of infringement notices and reminder notices:

**72 Sections 360D, 360E, 360G, and 360H repealed**

Repeal sections 360D, 360E, 360G, and 360H.

**73 Schedule 1 amended**

- (1) In Schedule 1, repeal clauses 4(2) to (2B), 14, and 21(3A).
- (2) Replace Part 4 of Schedule 1 with:

**Part 4**  
**Freshwater planning process**

**36 Interpretation**

In this Part,—

**Chief Commissioner** means the chief freshwater hearings commissioner appointed under **clause 62(4)**

**freshwater hearings panel** means a panel established under **clause 38**

**freshwater planning instrument** has the meaning given in **section 80D(1)**

**hearings** means any hearing or part of a hearing of submissions on a freshwater planning instrument conducted by a freshwater hearings panel

**relevant regional council** means the regional council responsible for a freshwater planning instrument.

Subpart 1—Freshwater planning process

*Commencement of freshwater planning process*

**37 Regional council must submit freshwater planning documents and give nominations to Chief Commissioner**

- (1) A regional council must, no later than 6 months after it has publicly notified a freshwater planning instrument, submit the following documents to the Chief Commissioner:
- (a) the freshwater planning instrument that was publicly notified; and
  - (b) any variation made to the freshwater planning instrument under clause 16A and 16B that was undertaken before [x]; and
  - (c) the regional council's evaluation report prepared under section 32; and
  - (d) the submissions the freshwater planning instrument that was received by the closing date for submissions; and

- (e) the council's summary of the decisions requested by submitters; and
  - (f) any further submissions on the proposed plan received by the closing date for further submissions; and
  - (g) any submissions received after the closing date for submissions or further submissions; and
  - (h) any information about when the submissions described in **paragraph (g)** were received; and
  - (i) the planning documents that are recognised by a iwi authority and lodged with the council; and
  - (j) any documentation relevant to obligations arising under any relevant iwi participation legislation or Mana Whakahono a Rohe.
- (2) A regional council must, at least 30 working days before it submits the documents under **subclause (1)**, provide the Chief Commissioner with 2 nominations for appointment to the freshwater hearings panel in accordance with clause 00.

### **38 Chief Commissioner must convene freshwater hearing panel**

As soon as practicable after receiving the documents described in **clause 37**, the Chief Commissioner must, in accordance with **clause 56**, convene a freshwater hearings panel for the freshwater planning instrument to which those documents relate.

#### *Hearing of submissions on freshwater planning instrument*

### **38 Functions of freshwater hearings panel**

The functions of every freshwater hearings panel—

- (a) is to conduct a public hearing of submissions on a freshwater planning instrument referred to it by the Chief Commissioner; and
- (b) is to make recommendations, after the hearing of submissions is concluded, to the relevant regional council.

### **39 Powers of freshwater hearings panel**

- (1) A freshwater hearings panel has the same duties and powers as a local authority under the following provisions:
- (a) section 39 (which provides for how hearings are to be conducted), except section 39(2)(c) and (d);
  - (b) section 39C (which sets out the effect of a lack of accreditation);
  - (c) section 40 (which provides for the persons who may be heard at a hearing);
  - (d) section 41 (which provides for the application of certain provisions of the Commissions of Inquiry Act 1908);

- (e) section 41A (which relates to the control of hearings):
  - (f) section 41B (which provides for the giving of directions as to the time for providing evidence in relation to a hearing):
  - (g) section 41C (which sets out the direction and requests that may be given before or at a hearing), except section 41C(4):
  - (h) section 41D (which provides for submissions to be struck out before or at a hearing).
- (2) At the hearing of submissions, a freshwater hearings panel may—
- (a) permit a party to question any other party or witness; and
  - (b) permit cross-examination.
- (3) If a freshwater hearings panel exercises a power under section 41D,—
- (a) a person whose submission is struck out has a right to objection under section 357 as if the references in that section to an authority were a reference to a freshwater hearings panel; and
  - (b) sections 357C to 358 apply to the freshwater hearings panel as the body to which an objection is made under section 357.

#### **40 Council officer must attend hearings**

- (1) The relevant regional council must attend the hearings assist a freshwater hearings panel in 1 or more of the following ways:
- (a) to clarify or discuss matters in the freshwater planning instrument:
  - (b) to give evidence:
  - (c) to speak to submissions or address issues raised by them:
  - (d) to provide any other relevant information as requested by the panel.
- (2) Despite **subclause (1)**, the freshwater hearings panel may excuse the relevant regional council from attending or remaining at any particular hearing.
- (3) A failure by a relevant regional council or a freshwater hearings panel to comply with this clause does not invalidate the hearing or the hearings session.
- (4) To avoid doubt, this clause does not limit or prevent the relevant regional council from—
- (a) making a submission on the freshwater planning instrument:
  - (b) being heard on that submission.

#### **41 Consequences of submitter not attending pre-hearing session meeting**

- (1) This clause applies if a submitter who is required to attend a meeting under **clause [xx]** fails to do so without reasonable excuse.
- (2) The freshwater hearings panel may decline to consider the person's submission.
- (3) If the freshwater hearings panel acts under **subclause (2)**, the person—

- (a) has no rights of appeal under **subpart 2** of this Part; and
  - (b) may not become, a party to proceedings as the result of any appeal right exercised by another person under this Part.
- (4) However, the person may object under **clause [xx]** of this of this Part.

#### **42 Conference of experts**

- (1) The freshwater hearings panel may, at any time during a hearing, direct that a conference of experts be held for the purpose of—
  - (a) clarifying a matter or an issue relating to the proposed freshwater planning instrument; or
  - (b) facilitating resolution of a matter or an issue relating to the freshwater planning instrument.
- (2) A conference may be facilitated by a member of the freshwater hearings panel or a person appointed by the panel.
- (3) The facilitator of a conference must, after the conference, prepare a report on the conference and provide it in writing or electronically to—
  - (a) the freshwater hearings panel; and
  - (b) the persons who attended the conference.
- (4) A facilitator must act under **subclause (3)(a) or (b)** only if the freshwater hearings panel requires him or her to do so.
- (5) A report prepared under **subclause (3)** must not, without a person's consent, include any material that the person communicated or made available at the conference on a without-prejudice basis.
- (6) To avoid doubt, the relevant regional council may attend a conference under this clause only if authorised to do so by the freshwater hearings panel.

#### **43 Alternative dispute resolution**

- (1) The freshwater hearings panel may, at any time during the hearing, refer to mediation or any other alternative dispute resolution process the persons listed in **subclause (2)** if—
  - (a) the panel considers that it is—
    - (i) appropriate to do so; and
    - (ii) likely to resolve issues between the parties that relate to the freshwater planning instrument; and
  - (b) each person has consented (other than the relevant regional council, which must participate if referred by the panel).
- (2) The persons are—
  - (a) 1 or more submitters; and
  - (b) the relevant regional council; and



- (c) any other person that the freshwater hearings panel considers appropriate.
- (3) The freshwater hearings panel must appoint the mediator or person facilitating the mediation or other process (the **mediator**).
- (4) The person who conducts the mediation or other process must report the outcome to the freshwater hearings panel.
- (5) In reporting the outcome under **subclause (4)**, material must not be included, without a person's consent, if the material was communicated or made available by the person at the mediation or other process on a without-prejudice basis.

#### **44 Freshwater hearings panel may commission reports**

- (1) The freshwater hearings panel may, at any time during a hearing, require the relevant regional council, or commission a consultant or any other person, to prepare a report on—
  - (a) 1 or more submissions; or
  - (b) any matter arising from a hearing session; or
  - (c) any other matter that the panel considers necessary for the purpose of the panel making its recommendations.
- (2) The report does not need to repeat information included in any submission.
- (3) Instead, the report may—
  - (a) adopt all of the information; or
  - (b) adopt any part of the information by referring to the part adopted.
- (4) The freshwater hearings panel—
  - (a) may consider a report under **clause [xx(1)]** at the hearing session or when making its recommendations, or both; and
  - (b) must require the relevant regional council to make the report available for inspection on its Internet site and at its offices.
- (5) A freshwater hearings panel may request and receive, from a person who makes a report under this clause, any information and advice that is relevant and reasonably necessary for the panel to make its recommendations under **clause 47**.

#### **45 Freshwater hearings panel may appoint special advisor**

The chairperson of a freshwater hearings panel may appoint as a special advisor a person who is able to assist the panel in any hearing

#### *Other procedural matters*

#### **46 Procedures of freshwater hearings panel**

Every freshwater hearings panel must—

- (a) regulate its own proceedings in a manner that is appropriate and fair in the circumstances; and
- (b) keep a full record of proceedings.

*Process for recommendations of freshwater hearings panel*

**47 Freshwater hearings panel must make recommendations to regional council on freshwater planning instrument**

- (1) The freshwater hearings panel must make recommendations on the freshwater planning instrument.
- (2) The freshwater hearings panel—
  - (a) is not limited in making recommendations only within the scope of submissions made on the freshwater planning instrument; and
  - (b) may make recommendations on any other matters relating to the freshwater planning instrument identified by the panel or any other person during the hearing.

*Recommendations must be provided in reports*

- (3) The freshwater hearings panel must provide its recommendations to the relevant regional council in 1 or more written reports.
- (4) Each report must include—
  - (a) the panel's recommendations on the provisions covered by the report, and identify any recommendations that are out of scope of the submissions made in respect of provisions of the freshwater planning instrument covered in the report; and
  - (b) the panel's decisions on the provisions and matters raised in submissions made in respect of the provisions covered by the report; and
  - (c) the reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to—
    - (i) the provisions of the proposed freshwater planning instrument to which they relate; or
    - (ii) the matters to which they relate; and
  - (d) the panel's recommendations on the topic or topics covered by the report, and identify any recommendations that are beyond the scope of the submissions made in respect of that topic or those topics; and
  - (e) the panel's decisions on the provisions and matters raised in submissions made in respect of the topic or topics covered by the report; and the reasons for accepting or rejecting submissions and, for this purpose, may address the submissions by grouping them according to [ ].
- (5) Each report may also include—

- (a) matters relating to any consequential alterations necessary to the freshwater planning instrument arising from submissions; and
  - (b) any other matter that the panel considers relevant to the freshwater planning instrument that arises from submissions or otherwise.
- (6) To avoid doubt, a panel is not required to make recommendations in a report that address each submission individually.

#### **48 Matters that affect recommendations**

A freshwater hearings panel, in formulating its recommendations, must—

- (a) have regard to any reports prepared under **clause [xx]**; and
- (b) include in the recommendations a further evaluation of the freshwater planning instrument undertaken in accordance with section 32AA.

#### **49 Deadline for recommendations**

A freshwater hearings panel must provide its report under **clause 47** to the relevant regional council no later than the date that is 50 working days before the expiry of 2 years from the date on which the relevant regional council publicly notified the freshwater planning instrument.

#### *Regional council's response to recommendations*

#### **50 Relevant regional council to consider recommendations and notify decisions on them**

- (1) The relevant regional council must—
- (a) decide whether to accept or reject each recommendation of the freshwater hearings panel; and
  - (b) for each rejected recommendation, decide an alternative solution, which—
    - (i) may or may not include elements of both the freshwater planning instrument as notified and the freshwater hearings panel's recommendation in respect of that part of the freshwater planning instrument; but
    - (ii) must be within the scope of the submissions.
- (2) When making decisions under **subclause (1)**, the relevant regional council—
- (a) this not required to consult any person or consider submissions or other evidence from any person; and
  - (b) must not consider any submission or other evidence unless it was made available to the freshwater hearings panel before the panel made the recommendation that is the subject of the relevant regional council's decision.

- (3) To avoid doubt, the relevant regional council may accept recommendations of the freshwater hearings panel that are beyond the scope of the submissions made on the proposed plan.
- (4) The relevant regional council must, no later than 20 working days after it is provided with the report, publicly notify its decisions under **subclause (1)** in a way that sets out the following information:
  - (a) each recommendation of the freshwater hearings panel that it accepts; and
  - (b) each recommendation of the freshwater hearings panel that it rejects and the reasons for doing so; and
  - (c) the alternative solution for each rejected recommendation.
- (5) After the regional council publicly notifies its decisions under **subclause (1)** it must comply with clause 11 as if the decisions were notified under clause 10(4)(b).

## Subpart 2—Appeals

### 51 Appeal rights

The only appeal rights available in respect of a freshwater planning instrument are as follows:

- (a) the right of appeal to the Environment Court under **clause 52**;
- (b) the right of appeal to the High Court under **clause 53**.

### 52 Right of appeal to Environment Court

- (1) A person who made a submission on a freshwater planning instrument may appeal to the Environment Court in respect of a provision or matter relating to the freshwater planning instrument—
  - (a) that the person addressed in the submission; and
  - (b) in relation to which the relevant regional council rejected a recommendation of the freshwater planning panel and decided an alternative solution which resulted in—
    - (i) a provision being included in the proposed freshwater planning instrument; or
    - (ii) a matter being excluded from the proposed freshwater planning instrument.
- (2) The Environment Court must treat an appeal under this clause as if it were a hearing under clause 15 of Part 1 of Schedule 1, and except as otherwise provided in this clause, clauses 14(5) and 15 of Schedule 1 and Parts 11 and 11A apply to the appeal.

**53 Right of appeal to High Court on question of law**

- (1) A person who made a submission on a freshwater planning instrument may appeal to the High Court in respect of a provision or matter relating to the proposed freshwater planning instrument—
  - (a) that the person addressed in the submission; and
  - (b) in relation to which the relevant regional council accepted a recommendation of the freshwater hearings panel which resulted in—
    - (i) a provision being included in a proposed freshwater planning instrument; or
    - (ii) a matter being excluded from a proposed freshwater planning instrument.
- (2) An appeal under this clause may only be on a question of law.
- (3) Except as otherwise provided in this clause, sections 299(2) and 300 to 307 apply.

**54 Judicial review**

- (1) Nothing in this Part limits or affects any right of judicial review a person may have in respect of any matter to which this Part applies.
- (2) However, a person must not both apply for judicial review of a decision made under this Part and appeal to the High Court under **clause 53** in respect of the decision unless the person lodges the applications for judicial review and appeal together.
- (3) If applications for judicial review and appeal are lodged together, the High Court must try to hear the judicial review and appeal proceedings together, but need not if the court considers it impracticable to do so in the circumstances of the particular case.

**Subpart 3—Freshwater hearings panels****55 Chief Commissioner's powers and functions in relation to freshwater hearing panels**

The Chief Commissioner has the following powers and functions:

- (a) to decide when and [where] freshwater hearings panels are to be convened;
- (b) to determine, after considering the documents submitted by a regional council under **clause 37** in relation to a freshwater planning instrument, the appropriate size and composition of a freshwater hearings panel in accordance with **clause 56**;
- (c) to seek and consider nominations for appointment of freshwater hearings commissioners under **clause 56(1)(b) and (c)**:

- (d) to appoint as freshwater hearings commissioners persons nominated under **clause 56(1)(b) and (c)**;
- (e) to appoint a chairperson of a freshwater hearings panel.

#### **56 Composition of freshwater hearings panel**

- (1) Each freshwater hearings panel must comprise no more than 5 freshwater hearings commissioners as follows:
  - (a) 2 freshwater hearings commissioners appointed by the Minister under **subpart 4**; and
  - (b) 2 freshwater hearings commissioners nominated by the relevant regional council and who may or may not be an elected regional council member; and
  - (c) 1 freshwater hearings commissioner with an understanding of tikanga Māori and matauranga Māori and nominated by local tangata whenua.
- (2) A person nominated as a freshwater hearings commissioner under **subclause (1)(b) or (c)** must be accredited under section 39A.
- (3) The number of freshwater hearings commissioners on a freshwater hearings panel may exceed the maximum of 5 if the Chief Commissioner considers that unique circumstances of a region exist.

#### **57 Appointment of chair of freshwater hearings panel**

- (1) The Chief Commissioner must appoint a chairperson of a freshwater hearings panel.
- (2) The chairperson must be a freshwater hearing commissioner appointed by the Minister under **subpart 4**.
- (3) In the event of an equality of votes, the chairperson has a casting vote.

#### **58 Liability of members of freshwater hearings panel**

A member of a freshwater hearings panel is not liable for anything the member does, or omits to do, in good faith in performing the functions and duties or exercising the powers of a panel.

Compare: s 68 RMA

#### **59 Funding of freshwater hearings panel and related activities**

- (1) The relevant regional council is responsible for all costs incurred by the freshwater hearings panel, and for the activities related to the performance or exercise of the panel's functions and powers under this Part.
- (2) Without limiting **subclause (1)**, the relevant regional council is responsible for—
  - (a) the remuneration and expenses of the members of the freshwater hearings panel; and

- (b) the administrative costs of each hearing session, including venue hire and public notices; and
  - (c) the remuneration of any expert, mediator or other dispute resolution facilitator, or other person whose services are engaged by the panel under this Part; and
  - (d) the allowances of any witness called by the panel.
- (3) For the purposes of **subclause (1)**, each member of the freshwater hearings panel must be paid—
  - (a) remuneration by way of salary, fees, or allowances at a rate determined by the Chief Commissioner in consultation with the Minister; and
  - (b) actual and reasonable travelling and other expenses incurred in carrying out his or her office in accordance with the Fees and Travelling Allowances Act 1951, and that Act applies as if the members were members of a statutory Board within the meaning of that Act.

#### Subpart 4—Freshwater hearings commissioners appointed by Minister

##### **60 Minister may appoint freshwater hearing commissioners**

- (1) The Minister may appoint freshwater hearing commissioners under this subpart.
- (2) The Minister must appoint freshwater hearings commissioners who are accredited under section 39A of this Act.
- (3) The Minister must appoint freshwater hearings commissioners who collectively have a knowledge of and expertise in relation to, the following:
  - (a) judicial processes and cross examination; and
  - (b) freshwater quality and quality, and freshwater ecology; and
  - (c) this Act; and
  - (d) tikanga Māori and matauranga Māori.
- (4) The Minister must appoint a chief freshwater hearings commissioner who is a retired or current Environment Court Judge.

##### **61 How freshwater hearings commissioners appointed**

- (1) The Minister must give a person appointed as a freshwater hearings commissioner under this subpart a written notice of appointment.
- (2) The notice of appointment must—
  - (a) state the date on which the appointment takes effect; and
  - (b) state the term of the appointment; and
  - (c) specify the terms of reference for the freshwater hearings commissioner.

**62 When freshwater hearings commissioner's appointment ceases**

- (1) A person appointed a freshwater hearings commissioner will remain in that office until the earliest of the following:
  - (a) the person's term of appointment ends;
  - (b) the person dies;
  - (c) the person resigns by giving 20 working days' written notice to the Minister.
- (2) The Minister may, at any time for just cause, by written notice, terminate the appointment of a freshwater hearings commissioner.
- (3) The Minister may, at any time for just cause, remove a freshwater hearings commissioner by written notice to the member (with a copy to the Chief Commissioner).
- (4) The notice must state—
  - (a) the date on which the removal takes effect, which must not be earlier than the date on which the notice is received by the member; and
  - (b) the reasons for the removal.
- (5) A freshwater hearings commissioner is not entitled to any compensation or other payment or benefit relating to the person ceasing, for any reason, to be a freshwater hearings commissioner.
- (6) In **subclause (2)**, just cause includes misconduct, inability to perform the functions of office, neglect of duty, and breach of the collective duties of the freshwater hearings panel or the individual duties of members
- (7) To avoid doubt, this clause applies only to freshwater hearings commissioners appointed under this subpart.

**74 Schedule 12 amended**

In Schedule 12, after clause 16, insert:

**Part 3****Provisions relating to Resource Management Amendment Act 2019****17 Amendment Act defined**

In this Part, **amendment Act** means the Resource Management Amendment Act **2019**.

**18 Matters affecting resource consent applications lodged before specified date**

- (1) An amendment made by the amendment Act does not, except as permitted by **subclause (3)**, apply in respect of a specified matter if, immediately before commencement, the matter has been lodged with a local authority or the EPA.



- (2) A person exercising their right of appeal in relation to a specified matter that was lodged with a local authority before commencement is entitled to appeal in accordance with **section 120(1B)** only if, and to the extent that, the person has time to appeal in accordance with section 121.
- (3) In this clause,—  
**commencement** means the commencement of **section 24** of the amendment Act  
**section 120(1B)** means **section 120(1B)** as inserted by the amendment Act  
**specified matter** means—
- (a) a decision of a consent authority in respect of an application for a resource consent; or
  - (b) an application for a resource consent in respect of a subdivision or a residential activity.
- 19 New time frames for resource consents relating to emergency work**  
 Section 330B(3) as amended by the amendment Act applies to an activity if the appropriate consent authority was advised of the activity on or after the commencement of **section 38** of the amendment Act.
- 20 Application of limitation period in section 338(4)**  
 Section 338(4) as amended by the amendment Act applies to an offence committed on or after the commencement of **section 41** of the amendment Act.
- 21 Performance of EPA enforcement functions**  
 The EPA may, in the performance of its enforcement functions specified in **section 343F**, take an enforcement action in relation an incident (within the meaning of **section 343E**) that occurred or started to occur before or after the commencement of **section 45** of the amendment Act.

## Part 2

### Amendments to other enactments

#### Subpart 1—Amendments to Resource Legislation Amendment Act 2017

- 75 Amendments to Resource Legislation Amendment Act 2017**  
**This subpart** amends the Resource Legislation Amendment Act 2017.
- 76 Section 2 amended (Commencement)**  
 Repeal section 2(2).
- 77 Subpart 3 of Part 1 repealed**  
 Repeal subpart 3 of Part 1.

**78 Schedules 4 and 5 repealed**

Repeal Schedules 4 and 5.

Subpart 2—Consequential amendments to other enactments

**79 Consequential amendments to other enactments**

Amend the enactments specified in the Schedule as set out in that schedule.

## **Schedule Consequential amendments**

**s 79**

### **Part 1 Amendments to Acts**

**District Court Act 2016 (2016 No 49)**

In section 30(3), replace “Principal Environment Judge” with “Chief Environment Judge”.

**Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004 (2004 No 38)**

In section 5, definition of **Head of Bench**, paragraph (g), replace “Principal Environment Judge” with “Chief Environment Judge”.

**Remuneration Authority Act 1977 (1977 No 110)**

In section 12B, replace “Principal Environment Judge” with “Chief Environment Judge”.

### **Part 2 Amendments to legislative instruments**

**Judicial Salaries and Allowances (2018/19) Determination 2018 (LI 2018/279)**

In the Schedule, replace “Principal Environment Judge” with “Chief Environment Judge”.