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### Resource Management Act 1991

An Act to restate and reform the law relating to the use of land, air, and water

BE IT ENACTED by the Parliament of New Zealand as follows:

1. **Short Title and commencement**—(1) This Act may be cited as the Resource Management Act 1991.
   (2) Except as provided in subsection (3), this Act shall come into force on the 1st day of October 1991.
   (3) Part XIII and the Fifth Schedule shall come into force on a date to be appointed by the Governor-General by Order in Council.

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### Schedules

1991, No. 69
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"Abatement notice" means a notice served under section 322:

"Allotment" has the meaning set out in section 218:

"Amenity values" means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes:

"Bed" means—

(a) In relation to any river, the space of land which the waters of the river cover at its fullest flow without overtopping the banks; and

(b) In relation to a lake, the space of land which the waters of the lake cover at its highest level without exceeding its physical margin; and

(c) In relation to the sea, the submarine areas covered by the internal waters and the territorial sea:

"Best practicable option", in relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to—

(a) The nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and

(b) The financial implications, and the effects on the environment, of that option when compared with other options; and

(c) The current state of technical knowledge and the likelihood that the option can be successfully applied:

"Board of inquiry" means a board of inquiry appointed under section 146 to consider an application for a resource consent or a board of inquiry appointed under section 46:

"Certificate of compliance" means a certificate granted by a territorial authority under section 139:

"Change" includes amend, add to, delete from, and replace, but does not include any amendment or variation under clause 16 of the First Schedule:
“Coastal marine area” means that area of the foreshore and seabed—
(a) Of which the seaward boundary is the outer limits of the territorial sea:
(b) Of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of—
(i) One kilometre upstream from the mouth of the river; or
(ii) The point upstream that is calculated by multiplying the width of the river mouth by 5:
“Coastal permit” has the meaning set out in section 87 (c):
“Coastal water” means seawater within the outer limits of the territorial sea and includes—
(a) Seawater with a substantial fresh water component; and
(b) Seawater in estuaries, fiords, inlets, harbours, or embayments:
“Company lease” means a lease or licence or other right of occupation of any building or part of any building on, or to be erected on, any land—
(a) That is granted by a company owning an estate or interest in the land; and
(b) That is held by a person by virtue of being a shareholder in the company,— and includes a licence within the meaning of Part I of the Companies Amendment Act 1964:
“Completion certificate” means a certificate issued under section 222:
“Conditions”, in relation to plans and resource consents, includes terms, standards, restrictions, and prohibitions:
“Consent authority” means the Minister of Conservation, a regional council, or a territorial authority, whose permission is required to carry out an activity for which a resource consent is required under this Act:
“Consent notice” means a notice issued under section 221:
“Constable” means any member of the Police:
“Contaminant” includes any substance (including gases, liquids, solids, and micro-organisms) or energy (excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat—
(a) When discharged into water, changes or is likely to change the physical, chemical, or biological condition of water; or

(b) When discharged onto or into land or into air, changes or is likely to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged:

“Contravene” includes fail to comply with:

“Controlled activity” means an activity—

(a) Which a plan specifies as a controlled activity; and

(b) Which is allowed only if a resource consent is obtained in respect of that activity:

“Costs and benefits” includes costs and benefits of any kind whether monetary or non-monetary:

“Cross lease” means a lease of any building or part of any building on, or to be erected on, any land—

(a) That is granted by any owner of the land; and

(b) That is held by a person who has an estate or interest in an undivided share in the land:

“Declaration” means a declaration about any of the matters set out in section 310 made by the Planning Tribunal under section 313:

“Designation” has the meaning set out in section 166:

“Discharge” includes emit, deposit, and allow to escape:

“Discharge permit” has the meaning set out in section 87 (e):

“Discretionary activity” means an activity which a plan specifies as being allowed only if a resource consent is obtained in respect of the activity from a consent authority, which must exercise its discretion to grant the consent in accordance with criteria specified in the plan and this Act:

“District”, in relation to a territorial authority,—

(a) Means the district of the territorial authority as defined in accordance with the Local Government Act 1974 but, except as provided in paragraphs (b) and (c) of this definition, does not include any area in the coastal marine area:

(b) Includes any area reclaimed in the coastal marine area for which a consent authority has issued a certificate under section 245 (5) (a) (ii) or (5) (b) (ii), but which has not yet been included within the boundary of the territorial authority:
(c) Includes for the purposes of section 89, any area in the coastal marine area:

“District plan” means an operative plan approved by a territorial authority under the First Schedule; and includes all operative changes to such a plan (whether arising from a review or otherwise):

“District rule” means a rule made as part of a district plan in accordance with section 76:

“Dwellinghouse” means any building, whether permanent or temporary, that is occupied, in whole or in part, as a residence; and includes any structure or outdoor living area that is accessory to, and used wholly or principally for the purposes of, the residence; but does not include the land upon which the residence is sited:

“Enforcement officer” means any person authorised under section 38:

“Enforcement order” means an order made under section 319 for any of the purposes set out in section 314; and includes an interim enforcement order made under section 320:

“Environment” includes—
(a) Ecosystems and their constituent parts, including people and communities; and
(b) All natural and physical resources; and
(c) Amenity values; and
(d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters:

“Esplanade reserve” has the meaning set out in section 229:

“Excessive noise” has the meaning set out in section 326:

“Foreshore” means any land covered and uncovered by the flow and ebb of the tide at mean spring tides and, in relation to any such land that forms part of the bed of a river, does not include any area that is not part of the coastal marine area:

“Fresh water” means all water except coastal water and geothermal water:

“Geothermal energy” means energy derived or derivable from and produced within the earth by natural heat phenomena; and includes all geothermal water:

“Geothermal water” means water heated within the earth by natural phenomena to a temperature of 30
degrees Celsius or more; and includes all steam, water, and water vapour, and every mixture of all or any of them that has been heated by natural phenomena:

“Government road” has the same meaning as in section 2 (1) of the Local Government Act 1974:

“Heritage order” has the meaning set out in section 187:

“Heritage protection authority” has the meaning set out in section 187:

“Industrial or trade premises” means—

(a) Any premises used for any industrial or trade purposes; or

(b) Any premises used for the storage, transfer, treatment, or disposal of waste materials or for other waste-management purposes, or used for composting organic materials; or

(c) Any other premises from which a contaminant is discharged in connection with any industrial or trade process—

and includes any factory farm; but does not include any production land:

“Industrial or trade process” includes every part of a process from the receipt of raw material to the dispatch or use in another process or disposal of any product or waste material, and any intervening storage of the raw material, partly processed matter, or product:

“Interim enforcement order” means an order made under section 320:

“Internal waters” has the same meaning as in section 4 of the Territorial Sea and Exclusive Economic Zone Act 1977:

“Intrinsic values”, in relation to ecosystems, means those aspects of ecosystems and their constituent parts which have value in their own right, including—

(a) Their biological and genetic diversity; and

(b) The essential characteristics that determine an ecosystem’s integrity, form, functioning, and resilience:

“Kaitiakitanga” means the exercise of guardianship; and, in relation to a resource, includes the ethic of stewardship based on the nature of the resource itself:
“Iwi authority” means the authority which represents an iwi and which is recognised by that iwi as having authority to do so:

“Lake” means a body of fresh water which is entirely or nearly surrounded by land, and for the purposes of Part X only means a lake whose bed has an area of 8 hectares or more:

“Land” includes land covered by water and the air space above land:

“Land use consent” has the meaning set out in section 87 (a):

“Local authority” means a regional council or territorial authority:

“Maataitai” means food resources from the sea and “mahinga maataitai” means the areas from which these resources are gathered:

“Mana whenua” means customary authority exercised by an iwi or hapu in an identified area:

“Mineral” means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945:

“Minister” means the Minister for the Environment:

“Mouth”, for the purpose of defining the landward boundary of the coastal marine area, means the mouth of the river either—

(a) As agreed and set between the Minister of Conservation, the regional council, and the appropriate territorial authority in the period between consultation on, and notification of, the proposed regional coastal plan; or

(b) As declared by the Planning Tribunal under section 310 upon application made by the Minister of Conservation, the regional council, or the territorial authority prior to the plan becoming operative,— and once so agreed and set or declared shall not be changed in accordance with the First Schedule or otherwise varied, altered, questioned, or reviewed in any way until the next review of the regional coastal plan, unless the Minister of Conservation, the regional council, and the appropriate territorial authority agree:
“National policy statement” means a statement issued under section 52:
“Natural and physical resources” includes land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures:
“Natural hazard” means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment:
“Network utility operator” has the meaning set out in section 166:
“New Zealand coastal policy statement” means a statement issued under section 57:
“Noise” includes vibration:
“Non-complying activity” means an activity which contravenes a plan but is not a prohibited activity:
“Occupier” means—
(a) The inhabitant occupier of any property; and
(b) In relation to any rateable property within the meaning of the Rating Powers Act 1988, includes any occupier of the property within the meaning of that Act; and
(c) For the purposes of section 16, in relation to any land (including any premises and any coastal marine area), includes any agent, employee, or other person acting or apparently acting in the general management or control of the land, or any plant or machinery on that land:
“Open coastal water” means coastal water that is remote from estuaries, fiords, inlets, harbours, and embayments:
“Operative”, in relation to a policy statement or plan, or a provision of a policy statement or plan, means that the policy statement, plan, or provision has become operative in terms of clause 20 of the First Schedule and has not ceased to be operative:
“Owner”, in relation to any land, means the person who is for the time being entitled to the rack rent of the land or who would be so entitled if the land were let to a tenant at a rack rent; and includes the—
(a) Owner of the fee simple of the land; and
(b) Any person who has agreed in writing, whether conditionally or unconditionally, to purchase the land or any leasehold estate or interest in the land, or to take a lease of the land, while the agreement remains in force:

"Permitted activity" means an activity that is allowed by a plan without a resource consent if it complies in all respects with any conditions (including any conditions in relation to any matter described in section 108 or section 220) specified in the plan:

"Person" includes the Crown, a corporation sole, and also a body of persons, whether corporate or unincorporate:

"Plan" means a regional plan or a district plan:

"Planning Tribunal" and "Tribunal" means the Planning Tribunal referred to in section 247:

"Policy statement" means a regional policy statement:

"Prescribed" means prescribed by regulations made under this Act:

"Prescribed form" means a form prescribed by regulations made under this Act and containing and having attached such information and documents as those regulations may require:

"Private road" has the same meaning as in section 315 of the Local Government Act 1974:

"Private way" has the same meaning as in section 315 of the Local Government Act 1974:

"Production land"—

(a) Means any land and auxiliary buildings used for the production (but not processing) of primary products (including agricultural, pastoral, horticultural, and forestry products):

(b) Does not include land or auxiliary buildings used or associated with prospecting, exploration, or mining for minerals or used for factory farming,—and "production" has a corresponding meaning:

"Prohibited activity" means an activity which a plan expressly prohibits and describes as an activity for which no resource consent shall be granted:

"Proposed plan" means a proposed plan or change to a plan that has been notified under clause 5 of the First Schedule but has not become operative in terms of clause 20 of the First Schedule; but does not include a proposed plan or change originally requested by a
person other than a local authority or a Minister of the Crown:

“Public notice” means—

(a) When given by a Minister of the Crown in relation to any matter other than a restricted coastal activity, a notice published in one or more daily newspapers circulating in the main metropolitan areas:

(b) When given by a local authority, consent authority, or requiring authority (including the Minister of Conservation in the case of a restricted coastal activity decision), a notice published in—

(i) One or more daily newspapers circulating in the region or district of the local authority or to which the consent or requirement relates; or

(ii) One or more other newspapers that have at least an equivalent circulation in that region or district, together with such other public notice (if any) as the Minister, local authority, consent authority, or requiring authority thinks desirable in the circumstances; and “publicly notify” and “public notification” have corresponding meanings:

“Public work” has the same meaning as in the Public Works Act 1981, and includes any existing or proposed public reserve within the meaning of the Reserves Act 1977 and any national park purposes under the National Parks Act 1980:

“Region” means, in relation to a regional council, the region of the regional council as determined in accordance with the Local Government Act 1974:

“Regional coastal plan” means an operative plan approved by the Minister of Conservation under the First Schedule and includes all operative changes to such a plan (whether arising from a review or otherwise):

“Regional council” has the same meaning as in the Local Government Act 1974, and includes the Chatham Islands County Council:

“Regional plan” means an operative plan (including a regional coastal plan) approved by a regional council or the Minister of Conservation under the First Schedule; and includes all operative changes to such a plan (whether arising from a review or otherwise):
"Regional policy statement" means an operative regional policy statement approved by a regional council under the First Schedule; and includes all operative changes to such a policy statement (whether arising from a review or otherwise): "Regional road" has the same meaning as in section 2 (1) of the Local Government Act 1974: "Regional rule" means a rule made as part of a regional plan in accordance with section 68: "Regulations" means regulations made under this Act: "Requiring authority" has the meaning set out in section 166: "Resource consent" has the meaning set out in section 87; and includes all conditions to which the consent is subject: "Restricted coastal activity" means any discretionary activity or non-complying activity—
(a) Which, in accordance with section 68, is stated by a regional coastal plan to be a restricted coastal activity; and
(b) For which the Minister of Conservation is the consent authority:
"River" means a continually or intermittently flowing body of fresh water, and includes a stream; but does not include any artificial watercourse; and for the purposes of Part X only means a river or stream whose bed has an average width of 3 metres or more: "Road" has the same meaning as in section 315 of the Local Government Act 1974: "Rule" means a district rule or a regional rule: "Serve" means serve in accordance with section 352 or section 353: "Special tribunal" means a special tribunal appointed under section 202 to hear an application for a water conservation order: "State highway" has the same meaning as in section 2 (1) of the Transit New Zealand Act 1989: "Structure" means any building, equipment, device, or other facility made by people and which is fixed to land: "Subdivision consent" has the meaning set out in section 87 (b): "Subdivision of land" and "subdivide land" have the meanings set out in section 218:
“Submission” means a written submission and, in relation to the preparation or change of a policy statement or plan, includes any submission made under clause 6 of the First Schedule in support of or in opposition to an original submission:

“Survey plan” means a plan of subdivision of land, or a building or part of a building, prepared in a form suitable for deposit under the Land Transfer Act 1952 or with the Registrar of Deeds; and any Crown plan prepared for a similar purpose as the case requires, and includes—

(a) A unit plan; and

(b) A plan to give effect to the grant of a cross lease or company lease:

“Tangata whenua”, in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area:

“Taonga raranga” means plants which produce material highly prized for use in weaving:

“Tauranga waka” means canoe landing sites:

“Territorial authority” has the same meaning as in section 2 (1) of the Local Government Act 1974:

“Territorial sea” means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977:

“Tikanga Maori” means Maori customary values and practices:

“Treaty of Waitangi (Te Tiriti o Waitangi)” has the same meaning as the word “Treaty” as defined in section 2 of the Treaty of Waitangi Act 1975:

“Unit” has the same meaning as in section 2 of the Unit Titles Act 1972; and includes a future development unit as defined in section 2 of the Unit Titles Amendment Act 1979:

“Unit plan” has the same meaning as in section 2 of the Unit Titles Act 1972; and includes a proposed unit development plan within the meaning of that Act but does not include a stage unit plan or a complete unit plan within the meaning of that Act:

“Water”—

(a) Means water in all its physical forms whether flowing or not and whether over or under the ground:

(b) Includes fresh water, coastal water, and geothermal water:
(c) Does not include water in any form while in any pipe, tank, or cistern:

"Water body" means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area:

"Water conservation order" has the meaning set out in section 200:

"Water permit" has the meaning set out in section 87 (d):

"Wetland" includes permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions:

"Working day" means any day except—

(a) A Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and

(b) A day in the period commencing with the 20th day of December in any year and ending with the 15th day of January in the following year.

(2) In this Act, unless the context otherwise requires,—

(a) A reference to a Part, section, or Schedule, is a reference to a Part, section, or Schedule of this Act:

(b) A reference in a section to a subsection is a reference to a subsection of that section:

(c) A reference in a subsection to a paragraph is a reference to a paragraph of that subsection:

(d) A reference in a section to a paragraph is a reference to a paragraph of that section:

(e) A reference in a Schedule to a clause is a reference to a clause of that Schedule:

(f) A reference in a clause of a Schedule to a subclause is a reference to a subclause of that clause:

(g) A reference in a subclause in a Schedule to a paragraph is a reference to a paragraph of that subclause:

(h) A reference in a clause in a Schedule to a paragraph is a reference to a paragraph of that clause.

3. Meaning of "effect"—In this Act, unless the context otherwise requires, the term "effect" in relation to the use, development, or protection of natural and physical resources, or in relation to the environment, includes—

(a) Any positive or adverse effect; and

(b) Any temporary or permanent effect; and

(c) Any past, present, or future effect; and
(d) Any cumulative effect which arises over time or in combination with other effects—regardless of the scale, intensity, duration, or frequency of the effect, and also includes—
(e) Any potential effect of high probability; and
(f) Any potential effect of low probability which has a high potential impact.

4. Act to bind the Crown—(1) Except as provided in subsections (2) to (5), this Act shall bind the Crown.
(2) This Act does not apply to any work or activity of the Crown which—
(a) Is a use of land within the meaning of section 9; and
(b) The Minister of Defence certifies is necessary for reasons of national security.
(3) This Act does not apply to the exercise by the Crown of any function or power in relation to any national park within the meaning of the National Parks Act 1980, or any development or activity by the Crown in a national park, which—
(a) Is a use of land within the meaning of section 9; and
(b) Does not have a significant adverse effect beyond the boundary of the national park; and
(c) Does not contravene section 13 (which relates to restrictions on use of the beds of lakes and rivers).
(4) This Act does not apply to any work or activity of the Crown within the boundaries of any area of land held or managed under the Conservation Act 1987 or any other Act specified in the First Schedule to that Act (other than land held for administrative purposes)—
(a) Which is a use of land within the meaning of section 9; and
(b) Which does not contravene section 13; and
(c) Which—
(i) The Minister of Conservation certifies is necessary for, or incidental to, maintaining the intrinsic values of that area of land; or
(ii) Conforms to a management strategy or management plan established under the Conservation Act 1987 or any other Act specified in the First Schedule to that Act.
(5) No enforcement order, abatement notice, excessive noise direction, or information shall be issued against the Crown.
PART II

PURPOSE AND PRINCIPLES

5. Purpose—(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.

(2) In this Act, "sustainable management" means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while—

(a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and

(b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

(c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

6. Matters of national importance—In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:

(a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:

(b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:

(c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:

(d) The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:

(e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

7. Other matters—In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

(a) Kaitiakitanga:
(b) The efficient use and development of natural and physical resources:
(c) The maintenance and enhancement of amenity values:
(d) Intrinsic values of ecosystems:
(e) Recognition and protection of the heritage values of sites, buildings, places, or areas:
(f) Maintenance and enhancement of the quality of the environment:
(g) Any finite characteristics of natural and physical resources:
(h) The protection of the habitat of trout and salmon.

8. Treaty of Waitangi—In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

PART III
DUTIES AND RESTRICTIONS UNDER THIS ACT

Land

9. Restrictions on use of land—(1) No person may use any land in a manner that contravenes a rule in a district plan or proposed district plan unless the activity is—
   (a) Expressly allowed by a resource consent granted by the territorial authority responsible for the plan; or
   (b) An existing use allowed by section 10 (certain existing uses protected).

(2) No person may contravene section 178 or section 194 (which relate to requirements for designations and heritage orders and prohibit the doing of certain things) unless the prior written consent of the requiring authority concerned is obtained.

(3) No person may use any land in a manner that contravenes a rule in a regional plan or a proposed regional plan unless that activity is—
   (a) Expressly allowed by a resource consent granted by the regional council responsible for the plan; or
   (b) Allowed by section 20 (certain existing lawful uses allowed).

(4) In this section, the word “use” in relation to any land means—
   (a) Any use, erection, reconstruction, placement, alteration, extension, removal, or demolition of any structure or
part of any structure in, on, under, or over the land; or
(b) Any excavation, drilling, tunnelling, or other disturbance of the land; or
(c) Any destruction of, damage to, or disturbance of, the habitats of plants or animals in, on, or under the land; or
(d) Any deposit of any substance in, on, or under the land; or
(e) Any other use of land—and "may use" has a corresponding meaning.
(5) In subsection (1), "land" includes the surface of water in any lake or river.
(6) Subsection (3) does not apply to the bed of any lake or river.
(7) This section does not apply to any use of the coastal marine area.

10. Certain existing uses in relation to land protected—(1) Land may be used in a manner that contravenes a rule in a district plan or a proposed district plan if—
(a) The use was lawfully established before the rule became operative or the proposed plan was notified; and
(b) The effects of the use are the same or similar in character, intensity, and scale to those which existed before the rule became operative or the proposed plan was notified.
(2) Subject to sections 357 and 358, this section does not apply when a use of land that contravenes a rule in a district plan or a proposed district plan has been discontinued for a continuous period of more than 12 months after the rule in the plan became operative or the proposed plan was notified unless—
(a) An application has been made to the territorial authority within 2 years of the activity first being discontinued; and
(b) The territorial authority has granted an extension upon being satisfied that—
(i) The effect of the extension on the integrity of the district plan is minor; and
(ii) The applicant has obtained approval from every person who may be adversely affected by the granting of the extension, unless in the authority’s opinion it is unreasonable in all the circumstances to require the obtaining of every such approval.
(3) This section does not apply if reconstruction or alteration of, or extension to, any building to which this section applies increases the degree to which the building fails to comply with any rule in a district plan.

(4) For the avoidance of doubt, this section does not apply to any use of land that is—

(a) Controlled under section 30 (1) (c) (regional control of certain land uses); or

(b) Restricted under section 12 (coastal marine area); or

(c) Restricted under section 18 (certain river and lake bed controls).

(5) Nothing in this section limits section 20 (certain existing lawful activities allowed).

(6) In this section, “use of land” has the same meaning as in section 9 (4) (a) to (e) and “land may be used” has a corresponding meaning.

11. Restrictions on subdivision of land—(1) No person may subdivide land, within the meaning of section 218, unless the subdivision is—

(a) Expressly allowed by a rule in a district plan or a resource consent, and a survey plan relating to the subdivision has in accordance with Part X—

(i) Been deposited by a District Land Registrar or a Registrar of Deeds; or

(ii) In the case of a subdivision by or on behalf of a Minister of the Crown, been approved by the Chief Surveyor for the purposes of section 228; or

(b) Effected by the acquisition, taking, transfer, or disposal of part of an allotment under the Public Works Act 1981 (except that, in the case of the disposition of land under the Public Works Act 1981, each existing separate parcel of land shall, unless otherwise provided by that Act, be disposed of without further division of that parcel of land); or

(c) Effected by the establishment, change, or cancellation of a reserve under section 439 of the Maori Affairs Act 1953, or a resumption under section 27D of the State-Owned Enterprises Act 1986; or

(d) Effected by any transfer, exchange, or other disposition of land made by an order under section 129b of the Property Law Act 1952 (which relates to the granting of access to land-locked land).
(2) Subsection (1) does not apply in respect of Maori land within the meaning of the Maori Affairs Act 1953 unless that Act otherwise provides.

Coastal Marine Area

12. Restrictions on use of coastal marine area—(1) No person may—

(a) Reclaim or drain any foreshore or seabed; or

(b) Erect, reconstruct, place, alter, extend, remove, or demolish any structure or any part of a structure that is fixed in, on, under, or over any foreshore or seabed; or

(c) Disturb any foreshore or seabed (including by excavating, drilling, or tunnelling) in a manner that has or is likely to have an adverse effect on the foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal); or

(d) Deposit in, on, or under any foreshore or seabed any substance in a manner that has or is likely to have an adverse effect on the foreshore or seabed; or

(e) Destroy, damage, or disturb any foreshore or seabed (other than for the purpose of lawfully harvesting any plant or animal) in a manner that has or is likely to have an adverse effect on plants or animals or their habitat; or

(f) Introduce or plant any exotic or introduced plant in, on, or under the foreshore or seabed—unless expressly allowed to do so by a rule in a regional coastal plan or a resource consent.

(2) No person may do any of the following in relation to land in the coastal marine area of the Crown or land vested in the regional council:

(a) Occupy the land:

(b) Remove any sand, shingle, or other natural material from the land,—

unless expressly allowed to do so by a rule in a regional plan or a resource consent.

(3) Without limiting subsection (1), no person may carry out any activity—

(a) In, on, under, or over any coastal marine area; or

(b) In relation to any natural and physical resources contained within any coastal marine area,—

in a manner that contravenes a rule in a regional coastal plan or a proposed regional coastal plan unless the activity is expressly
Resource Management

allowed by a resource consent or allowed by section 20 (certain existing lawful activities allowed).

(4) In this section and in section 13 (1),—
(a) “Occupy” means occupy to the exclusion of other persons for a period of time and in a way that, but for the rule in the regional coastal plan or the holding of a resource consent, a lease or licence to occupy the space would be necessary:
(b) “Remove any sand, shingle, or other natural material” means to take any of that material in such quantities or in such circumstances that, but for the rule in the regional coastal plan or the holding of a resource consent, a licence or profit à prendre to do so would be necessary.

River and Lake Beds

18. Restriction on certain uses of beds of lakes and rivers—(1) Unless expressly allowed to do so by a rule in a regional plan or a resource consent granted by a regional council, no person may, in relation to any lake bed or river bed, carry out any of the following activities:
(a) Any use, erection, reconstruction, placement, alteration, extension, removal, or demolition of any structure or part of any structure in, on, under, or over the bed; or
(b) Any excavation, drilling, tunnelling, or other disturbance of the bed; or
(c) Any introduction or planting of any plant or part of any plant (whether exotic or indigenous) in, on, or under the bed; or
(d) Any deposit of any substance in, on, or under the bed; or
(e) Any reclamation or draining of the bed.

(2) No person may—
(a) Enter or pass across the bed of any river or lake; or
(b) Disturb, remove, damage, or destroy any plant or part of any plant (whether exotic or indigenous) or the habitats of any such plants or of animals in, on, or under the bed of any lake or river—in a manner that contravenes a rule in a regional plan or proposed regional plan unless that activity is—
(c) Expressly allowed by a resource consent granted by the regional council responsible for the plan; or
(d) Allowed by section 20 (certain existing lawful uses allowed).

(3) This section does not apply to any use of land in the coastal marine area.
(4) Nothing in this section limits section 9.

**Water**

14. Restrictions relating to water—(1) No person may take, use, dam, or divert any—
(a) Water (other than open coastal water); or
(b) Heat or energy from water (other than open coastal water); or
(c) Heat or energy from the material surrounding any geothermal water—unless the taking, use, damming, or diversion is allowed by subsection (3).

(2) No person may—
(a) Take, use, dam, or divert any open coastal water; or
(b) Take or use any heat or energy from any open coastal water,—in a manner that contravenes a rule in a regional plan or a proposed regional plan unless expressly allowed by a resource consent or allowed by section 20 (certain existing lawful activities allowed).

(3) A person is not prohibited by subsection (1) from taking, using, damming, or diverting any water, heat, or energy if—
(a) The taking, use, damming, or diversion is expressly allowed by a rule in a regional plan or a resource consent; or
(b) In the case of fresh water, the water, heat, or energy is required to be taken or used for—
   (i) An individual’s reasonable domestic needs; or
   (ii) The reasonable needs of an individual’s animals for drinking water,—and the taking or use does not, or is not likely to, have an adverse effect on the environment; or
(c) In the case of geothermal water, the water, heat, or energy is taken or used in accordance with tikanga Maori for the communal benefit of the tangata whenua of the area and does not have an adverse effect on the environment; or
(d) In the case of coastal water (other than open coastal water), the water, heat, or energy is required for an individual’s reasonable domestic or recreational needs and the taking, use, or diversion does not, or is not likely to, have an adverse effect on the environment; or
(e) The water is required to be taken or used for fire-fighting purposes.
Discharges

15. Discharge of contaminants into environment—
(1) No person may discharge any—
(a) Contaminant or water into water; or
(b) Contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or
(c) Contaminant from any industrial or trade premises into air; or
(d) Contaminant from any industrial or trade premises onto or into land—
   unless the discharge is expressly allowed by a rule of a regional plan, a resource consent, or regulations.
(2) No person may discharge any contaminant into the air, or into or onto land, from—
(a) Any place; or
(b) Any other source, whether moveable or not,—
in a manner that contravenes a rule in a regional plan or proposed regional plan unless the discharge is expressly allowed by a resource consent or allowed by section 20 (certain existing lawful activities allowed).

Noise

16. Duty to avoid unreasonable noise—(1) Every occupier of land (including any premises and any coastal marine area), and every person carrying out an activity in, on, or under a water body or the water covering the coastal marine area, shall adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level.
(2) Subsection (1) does not limit the right of any local authority or consent authority to prescribe noise emission standards in plans made, or resource consents granted, for the purposes of any of sections 9, 12, 13, 14, or 15.

Adverse Effects

17. Duty to avoid, remedy, or mitigate adverse effects—(1) Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of that person, whether or not the activity is in accordance with a rule in a plan, a resource consent, section 10 (certain existing uses protected), or section 20 (certain existing lawful activities allowed).
(2) The duty referred to in subsection (1) is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.

(3) Notwithstanding subsection (2), an enforcement order or abatement notice may be made or served under Part XII to—

(a) Require a person to cease, or prohibit a person from commencing, anything that, in the opinion of the Planning Tribunal or an enforcement officer, is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment; or

(b) Require a person to do something that, in the opinion of the Planning Tribunal or an enforcement officer, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by, or on behalf of, that person.

Emergencies

18. Possible defence in cases of unforeseen emergencies—(1) Any person who is prosecuted under section 338 for any offence arising from a contravention of any of sections 9, 11, 12, 13, 14, and 15 may raise any defence that is referred to in section 341.

(2) No person may be prosecuted for acting in accordance with section 330 (which relates to certain activities undertaken in an emergency).

Effect of Certain Changes to Plans

19. Changes to plans which will allow activities—Where—

(a) A new rule, or a change to a rule, has been publicly notified and will allow an activity that would otherwise not be allowed unless a resource consent was obtained; and

(b) The time for making or lodging submissions or appeals against the new rule or change has expired and—

(i) No such submissions or appeals have been made or lodged; or

(ii) All such submissions have been withdrawn and all such appeals have been withdrawn or dismissed—then, notwithstanding any other provision of this Act, the activity may be undertaken in accordance with the new rule or change as if the new rule or change had become operative and the previous rule were inoperative.
20. Certain existing lawful activities allowed—(1) Any activity restricted by sections 9, 12 (3), 13 (2), 14 (2), or 15 (2) that contravenes a rule in a proposed regional plan may continue until the regional plan including that rule becomes operative, if—
(a) The activity was lawfully established before the proposed plan was notified; and
(b) The activity has not been discontinued for a continuous period of more than 6 months (or such longer period as is fixed in any particular case or classes of case by the regional council that is responsible for the proposed plan) since the proposed plan was notified; and
(c) The effects of the activity are the same or similar in character, intensity, and scale to those which existed before the proposed plan was notified.
(2) Where, as a result of a rule in a regional plan or a change to a regional plan becoming operative, an activity that formerly was a permitted activity or which otherwise could have been lawfully carried out without a resource consent, becomes a controlled, discretionary, or non-complying activity, the activity may continue to be carried on after the plan or change becomes operative, if—
(a) The activity was lawfully established before the plan or change became operative; and
(b) The effects of the activity are the same or similar in character, intensity, and scale to those which existed before the plan or change became operative; and
(c) The person carrying on the activity has applied for a resource consent from the appropriate consent authority within 6 months of the plan or change becoming operative and the application has not been decided or any appeals have not been determined.
(3) Nothing in this section limits section 10.

Miscellaneous Provisions

21. Avoiding unreasonable delay—Every person who exercises or carries out functions, powers, or duties, or is required to do anything, under this Act for which no time limits are prescribed shall do so as promptly as is reasonable in the circumstances.

22. Duty to give certain information—Where any enforcement officer has reasonable grounds to believe that a person is breaching or has breached any of the obligations
under this Part, the enforcement officer may direct that person to—

(a) Give his or her name and address; and

(b) Give the name and address and whereabouts of any other person on whose behalf the person is breaching or has breached the obligations under this Part.

28. Other legal requirements not affected—

(1) Compliance with this Act does not remove the need to comply with all other applicable Acts, regulations, bylaws, and rules of law.

(2) The duties and restrictions described in this Part shall only be enforceable against any person through the provisions of this Act; and no person shall be liable to any other person for a breach of any such duty or restriction except in accordance with the provisions of this Act.

(3) Nothing in subsection (2) limits or affects any right of action which any person may have independently of the provisions of this Act.

PART IV

FUNCTIONS, POWERS, AND DUTIES OF CENTRAL AND LOCAL GOVERNMENT

Functions, Powers, and Duties of Ministers

24. Functions of Minister for the Environment—The Minister for the Environment shall have the following functions under this Act:

(a) The recommendation of the issue of national policy statements under section 52:

(b) The recommendation of the making of regulations under section 43:

(c) The call-in of projects for decision under section 140:

(d) The recommendation of the approval of an applicant as a requiring authority under section 167 or a heritage protection authority under section 188:

(e) The recommendation of the issue of water conservation orders under section 214:

(f) The monitoring of the effect and implementation of this Act (including any regulations in force under it), national policy statements, and water conservation orders:

(g) The monitoring of the relationship between the functions, powers, and duties of central government and local government under this Part, and the functions,
powers, and duties of the Hazards Control Commission under Part XIII:

(h) The consideration and investigation of the use of economic instruments (including charges, levies, other fiscal measures, and incentives) to achieve the purpose of this Act:

(i) Any other functions specified in this Act.

25. Residual powers of Minister for the Environment—

(1) Where any local authority is not exercising or performing any of its functions, powers, or duties under this Act to the extent that the Minister for the Environment considers necessary to achieve the purpose of this Act, the Minister may appoint, on such terms and conditions as the Minister thinks fit, one or more persons (including any officer of the public service) to exercise or perform all or any of those functions, powers, or duties in place of the local authority.

(2) The Minister shall not make an appointment under subsection (1) until—

(a) The local authority has been given written notice specifying the reasons why the Minister proposes to make the appointment; and

(b) The local authority has a reasonable opportunity to satisfy the Minister that it has not failed to exercise or perform any of its functions, powers, or duties to the extent necessary to achieve the purpose of this Act, and having not succeeded in so satisfying the Minister, has failed to take proper steps within a time specified in the notice (being not less than 20 working days after the date of the notice) to remedy the defaults complained of.

(3) Any person appointed under subsection (1) to exercise or perform the functions, powers, or duties of a local authority under this Act may do so as if the person were the local authority, and the provisions of this Act shall apply accordingly.

(4) All costs, charges, and expenses incurred by the Minister for the purposes of this section, or by a person appointed by the Minister under this section in exercising or performing functions, powers, or duties of a local authority, shall be recoverable from the local authority as a debt due to the Crown or may be deducted from any money payable to the local authority by the Crown.

26. Minister may make grants and loans—(1) The Minister for the Environment may make grants and loans on
such conditions as he or she thinks fit to any person to assist in achieving the purpose of this Act.

(2) All money spent or advanced by the Minister under this section shall be paid out of money appropriated by Parliament for the purpose.

(3) All money received by the Minister under this Act shall be paid into the Crown Bank Account or such other account as may be approved by the Minister of Finance.

27. Local authorities to supply information to Minister for the Environment—Any local authority requested by the Minister for the Environment to supply such information as the Minister reasonably requires relating to the exercise or performance of any of the local authority’s functions, powers, or duties under this Act shall be under a duty to supply it as soon as reasonably practicable.

28. Functions of Minister of Conservation—The Minister of Conservation shall have the following functions under this Act:

(a) The preparation and recommendation of New Zealand coastal policy statements under section 57;
(b) The approval of regional coastal plans in accordance with the First Schedule;
(c) The making of decisions on applications for coastal permits in relation to restricted coastal activities;
(d) The monitoring of the effect and implementation of national coastal policy statements and coastal permits issued by the Minister of Conservation;
(e) The certification under section 4 (4) (c) (i) of works and activities to which this Act does not apply.

29. Delegation of functions by Ministers—(1) Any Minister of the Crown may, either generally or particularly, delegate to the chief executive of that Minister’s department in accordance with section 28 of the State Sector Act 1988, any of that Minister’s functions, powers, or duties under this Act other than the following:

(a) The recommendation of the issue, change, or revocation of a national policy statement or a New Zealand coastal policy statement under sections 46, 53, or 57:
(b) The approval of a regional coastal plan under clause 19 of the First Schedule:
(c) The call-in of projects under section 140 and decisions on such projects under section 149:
(d) The recommendation of the approval of an applicant as a requiring authority under section 167 or as a heritage protection authority under section 188:

(e) The recommendation of the issue of a water conservation order under section 214:

(f) The certification of any work or activity under section 4:

(g) The power of the Minister for the Environment to appoint under section 25 persons to exercise or perform functions, powers, or duties in place of a local authority:

(h) This power of delegation.

(2) A chief executive may, in accordance with section 41 of the State Sector Act 1988, subdelegate any function, power, or duty delegated to him or her by a Minister under section 28 of that Act.

(3) Any delegation or subdelegation made under this section may be revoked in accordance with section 29 or section 42 of the State Sector Act 1988, as the case may be.

Functions, Powers, and Duties of Local Authorities

30. Functions of regional councils under this Act—

(1) Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:

(a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:

(b) The preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land which are of regional significance:

(c) The control of the use of land for the purpose of—

(i) Soil conservation:

(ii) The maintenance and enhancement of the quality of water in water bodies and coastal water:

(iii) The maintenance of the quantity of water in water bodies and coastal water:

(iv) The avoidance or mitigation of natural hazards:

(v) The prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:

(d) In respect of any coastal marine area in the region, the control (in conjunction with the Minister of Conservation) of—
(i) Land and associated natural and physical resources:

(ii) The occupation of space on lands of the Crown or lands vested in the regional council, that are foreshore or seabed and the extraction of sand, shingle, or other natural material from that land:

(iii) The taking, use, damming, and diversion of water:

(iv) Discharges of contaminants into or onto land, air, or water and discharges of water into water:

(v) Any actual or potential effects of the use, development, or protection of land, including the avoidance or mitigation of natural hazards and the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:

(vi) The emission of noise and the mitigation of the effects of noise:

(vii) Activities in relation to the surface of water:

(e) The control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body, including—

(i) The setting of any maximum or minimum levels or flows of water:

(ii) The control of the range, or rate of change, of levels or flows of water:

(iii) The control of the taking or use of geothermal energy:

(f) The control of discharges of contaminants into or onto land, air, or water and discharges of water into water:

(g) In relation to any bed of a water body, the control of the introduction or planting of any plant in, on, or under that land, for the purpose of—

(i) Soil conservation:

(ii) The maintenance and enhancement of the quality of water in that water body:

(iii) The maintenance of the quantity of water in that water body:

(iv) The avoidance or mitigation of natural hazards:

(h) Any other functions specified in this Act.

(2) The functions of the regional council and the Minister of Conservation in subsection (1) (d) (i) do not apply to the control of the harvesting or enhancement of populations of aquatic organisms, where the purpose of that control is to conserve,
enhance, protect, allocate, or manage any fishery controlled by the Fisheries Act 1983.

31. **Functions of territorial authorities under this Act**—Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:

(a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:

(b) The control of any actual or potential effects of the use, development, or protection of land, including the implementation of rules for the avoidance or mitigation of natural hazards and the prevention and mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:

(c) The control of subdivision of land:

(d) The control of the emission of noise and the mitigation of the effects of noise:

(e) The control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:

(f) Any other functions specified in this Act.

32. **Duties to consider alternatives, assess benefits and costs, etc.**—(1) In achieving the purpose of this Act, before adopting any objective, policy, rule, or other method in relation to any function described in subsection (2), any person described in that subsection shall—

(a) Have regard to—

(i) The extent (if any) to which any such objective, policy, rule, or other method is necessary in achieving the purpose of this Act; and

(ii) Other means in addition to or in place of such objective, policy, rule, or other method which, under this Act or any other enactment, may be used in achieving the purpose of this Act, including the provision of information, services, or incentives, and the levying of charges (including rates); and

(iii) The reasons for and against adopting the proposed objective, policy, rule, or other method and the principal alternative means available, or of taking no action where this Act does not require otherwise; and
(b) Carry out an evaluation, which that person is satisfied is appropriate to the circumstances, of the likely benefits and costs of the principal alternative means including, in the case of any rule or other method, the extent to which it is likely to be effective in achieving the objective or policy and the likely implementation and compliance costs; and

(c) Be satisfied that any such objective, policy, rule, or other method (or any combination thereof)—

(i) Is necessary in achieving the purpose of this Act; and

(ii) Is the most appropriate means of exercising the function, having regard to its efficiency and effectiveness relative to other means.

(2) Subsection (1) applies to—

(a) The Minister, in relation to—

(i) The recommendation of the issue, change, or revocation of any national policy statement under sections 52 and 53:

(ii) The recommendation of the making of any regulations under section 48:

(b) The Minister of Conservation, in relation to—

(i) The preparation and recommendation of New Zealand coastal policy statements under section 57:

(ii) The approval of regional coastal plans in accordance with the First Schedule:

(c) Every local authority, in relation to the setting of objectives, policies, and rules under Part V.

(3) No person shall challenge any objective, policy, or rule in any plan or proposed plan on the grounds that subsection (1) has not been complied with, except—

(a) In a submission made under clause 6 of the First Schedule in respect of a proposed plan or change to a plan; or

(b) In an application or request to change a plan made under section 64 (4) or section 65 (4) or section 73 (2) or clause 23 of the First Schedule.

33. Transfer of powers—(1) A local authority that has functions, powers, or duties under this Act may transfer any one or more of those functions, powers, or duties to another public authority in accordance with this section, except that it may not transfer any of the following:

(a) The approval of a policy statement or plan or any changes to a policy statement or plan:
(b) The issuing of, or the making of a recommendation on, a requirement for a designation or a heritage order under Part VIII:

(c) This power of transfer.

(2) For the purposes of this section, "public authority" includes any local authority, iwi authority, Government department, statutory authority, and joint committee set up for the purposes of section 80.

(3) A local authority that transfers any function, power, or duty under this section shall continue to be responsible for the exercise thereof.

(4) A local authority shall not transfer any of its functions, powers, or duties under this section unless—

(a) It has used the special consultative procedure specified in section 716A of the Local Government Act 1974; and

(b) Before using that special consultative procedure it serves notice on the Minister of its proposal to transfer the function, power, or duty; and

(c) Both authorities agree that the transfer is desirable on all of the following grounds:

(i) The authority to which the transfer is made represents the appropriate community of interest relating to the exercise or performance of the function, power, or duty:

(ii) Efficiency:

(iii) Technical or special capability or expertise.

(5) Paragraphs (a) and (b) of subsection (1) shall not prevent a local authority transferring to another public authority, power to do anything prior to any final decision or recommendation on a matter referred to in those paragraphs.

(6) A transfer of functions, powers, or duties under this section shall be made by agreement between the authorities concerned and on such terms and conditions as are agreed.

(7) A public authority to which any function, power, or duty is transferred under this section may accept such transfer, unless expressly forbidden to do so by the terms of any Act by or under which it is constituted; and upon any such transfer, its functions, powers, and duties shall be deemed to be extended in such manner as may be necessary to enable it to undertake, exercise, and perform the function, power, or duty.

(8) A local authority which has transferred any function, power, or duty under this section may change or revoke the transfer at any time by notice to the transferee.
(9) A public authority to which any function, power, or duty has been transferred under this section, may relinquish the transfer in accordance with the transfer agreement.

34. Delegation of functions, etc., by local authorities—
(1) A local authority may delegate to any committee of the local authority established in accordance with the Local Government Act 1974 any of its functions, powers, or duties under this Act.
(2) A territorial authority may delegate to any community board established in accordance with the Local Government Act 1974 any of its functions, powers, or duties under this Act in respect of any matter of significance to that community, other than the approval of a plan or any change to a plan.
(3) A local authority may delegate to any hearings commissioner or commissioners appointed by the local authority for this purpose, who may or may not be a member of the local authority, any of its functions, powers, or duties under this Act, other than—
   (a) The approval of a policy statement or plan or any change to a policy statement or plan:
   (b) This power of delegation.
(4) A local authority may delegate to any of its officers any of its functions, powers, or duties under this Act, other than—
   (a) The approval of a policy statement or plan or any change to a policy statement or plan:
   (b) The making of a recommendation on a requirement for a designation or a heritage order under Part VIII:
   (c) The granting of a resource consent for a non-complying activity in respect of any application which is notified in accordance with section 93:
   (d) This power of delegation.
(5) No delegation under subsection (4) shall be made except through the local authority’s chief executive officer or group of senior executive officers in accordance with the Local Government Act 1974.
(6) Nothing in subsections (2), (3), and (4) shall prevent a local authority delegating to a hearings commissioner or commissioners, or community board, or officer, power to do anything prior to any final decision on a matter referred to in those subsections.
(7) Any delegation under this section may be made on such terms and conditions as the local authority thinks fit, and may be revoked at any time by notice to the delegate.
(8) Except as provided in the instrument of delegation, every person to whom any function, power, or duty has been
delegated under this section may, without confirmation by the local authority, exercise or perform the function, power, or duty in like manner and with the same effect as the local authority could itself have exercised or performed it.

(9) Every person authorised to act under a delegation under this section is presumed to be acting in accordance with its terms in the absence of proof to the contrary.

(10) A delegation under this section does not affect the performance or exercise of any function, power, or duty by the local authority.

35. Duty to gather information, monitor, and keep records—(1) Every local authority shall gather such information, and undertake or commission such research, as is necessary to carry out effectively its functions under this Act.

(2) Every local authority shall monitor—
   (a) The state of the whole or any part of the environment of its region or district to the extent that is appropriate to enable the local authority to effectively carry out its functions under this Act; and
   (b) The suitability and effectiveness of any policy statement or plan for its region or district; and
   (c) The exercise of any functions, powers, or duties delegated or transferred by it; and
   (d) The exercise of the resource consents that have effect in its region or district, as the case may be,— and take appropriate action (having regard to the methods available to it under this Act) where this is shown to be necessary.

(3) Every local authority shall keep reasonably available at its principal office, information which is relevant to the administration of policy statements and plans, the monitoring of resource consents, and current issues relating to the environment of the area, to enable the public—
   (a) To be better informed of their duties and of the functions, powers, and duties of the local authority; and
   (b) To participate effectively under this Act.

(4) Every local authority shall keep reasonably available at each of the offices in its region or district such of the information referred to in subsection (3) as relates to that part of the region or district.

(5) The information to be kept by a local authority under subsection (3) shall include—
   (a) Copies of its operative and any proposed policy statements and plans including all requirements for
designations and heritage orders, and all operative and proposed changes to those policy statements and plans; and
(b) All its decisions relating to submissions on any proposed policy statements and plans which have not yet become operative; and
(c) In the case of a territorial authority, copies of every operative and proposed regional policy statement and regional plan for the region of which its district forms part; and
(d) In the case of a regional council, copies of every operative and proposed district plan for every territorial authority in its region; and
(e) In the case of a regional council, a copy of every Order in Council served on it under section 154 (a); and
(f) Copies of any national policy statement or New Zealand coastal policy statement; and
(g) Records of each resource consent granted by it, including any transfer of a resource consent; and
(h) Records of all extensions of time periods and waivers granted by it under section 37 in relation to applications under section 10 (which relates to existing uses), section 125 (which relates to lapsing of consents), and section 184 (which relates to lapsing of designations) during the preceding 5 years; and
(i) A summary of all written complaints received by it during the preceding 5 years concerning alleged breaches of the Act or a plan, and information on how it dealt with each such complaint; and
(j) Records of natural hazards to the extent that the local authority considers appropriate for the effective discharge of its functions; and
(k) Any other information gathered under subsections (1) and (2).

86. Administrative charges—(1) A local authority may from time to time, subject to subsection (2), fix charges of all or any of the following kinds:
(a) Charges payable by applicants for the preparation or change of a policy statement or plan, for the carrying out by the local authority of its functions in relation to such applications:
(b) Charges payable by applicants for resource consents, for the carrying out by the local authority of its functions in relation to the receiving, processing, and granting
of resource consents (including certificates of compliance):
(c) Charges payable by holders of resource consents, for the carrying out by the local authority of its functions in relation to the administration, monitoring, and supervision of resource consents (including certificates of compliance), and for the carrying out of its resource management functions under section 35:
(d) Charges payable by requiring authorities and heritage protection authorities, for the carrying out by the local authority of its functions in relation to designations and heritage orders:
(e) Charges for providing information in respect of plans and resource consents, payable by the person requesting the information:
(f) Charges for supply of documents, payable by the person requesting the document:
(g) Any kind of charge authorised for the purposes of this section by regulations.
Charges fixed under this subsection shall be either specific amounts or determined by reference to scales of charges or other formulae fixed by the local authority.
(2) Charges may be fixed under subsection (1) only—
(a) In the manner set out in section 690A of the Local Government Act 1974; and
(b) Either after adopting the special consultative procedure set out in section 716A of the Local Government Act 1974 or by special order under section 716B of that Act; and
(c) In accordance with subsection (4).
(3) Where a charge fixed in accordance with subsection (1) is, in any particular case, inadequate to enable a local authority to recover its actual and reasonable costs in respect of the matter concerned, the local authority may require the person who is liable to pay the charge, to also pay an additional charge to the local authority.
(4) When fixing charges referred to in this section, a local authority shall have regard to the following criteria:
(a) The sole purpose of a charge is to recover the reasonable costs incurred by the local authority in respect of the activity to which the charge relates:
(b) A particular person or persons should only be required to pay a charge—
   (i) To the extent that the benefit of the local authority's actions to which the charge relates is
obtained by those persons as distinct from the community of the local authority as a whole; or

(ii) Where the need for the local authority’s actions to which the charge relates is occasioned by the actions of those persons; or

(iii) In a case where the charge is in respect of the local authority’s monitoring functions under section 35 (2) (a) (which relates to monitoring the state of the whole or part of the environment), to the extent that the monitoring relates to the likely effects on the environment of those persons’ activities, or to the extent that the likely benefit to those persons of the monitoring exceeds the likely benefit of the monitoring to the community of the local authority as a whole,—

and the local authority may fix different charges for different costs it incurs in the performance of its various functions, powers, and duties under this Act—

(c) In relation to different areas or different classes of applicant, consent holder, requiring authority, or heritage protection authority; or

(d) Where any activity undertaken by the persons liable to pay any charge reduces the cost to the local authority of carrying out any of its functions, powers, and duties.

(5) A local authority may, in any particular case and in its absolute discretion, remit the whole or any part of any charge of a kind referred to in this section which would otherwise be payable.

(6) Sections 357 and 358 (which deal with rights of objection and appeal against certain decisions) shall apply in respect of the requirement by a local authority to pay an additional charge under subsection (3).

(7) Where a charge of a kind referred to in subsection (1) is payable to a local authority, the local authority need not perform the action to which the charge relates until the charge has been paid to it in full.

Waivers and Extension of Time Limits

37. Power of waiver and to extend time limits—(1) A local authority or consent authority may, in any particular case, extend a time period specified in this Act or in regulations, within which it or any other person must do something in connection with any of the authority’s functions under this Act.
(2) A local authority or consent authority may waive any failure to comply with any requirement under this Act, regulations, or a plan in relation to the time or method of service of documents or the documents to be served in connection with any of the authority's functions under this Act.

(3) Where any person is required to provide information under this Act, regulations or any plan and the information supplied contains an inaccuracy, or there is an omission or any step in any procedure is omitted, a local authority or consent authority may—

(a) Waive compliance with the requirement in respect of which the omission or inaccuracy occurred; or

(b) Direct that any omission or inaccuracy be rectified on such terms as the authority thinks appropriate.

(4) A local authority or consent authority shall not do anything under subsections (1) to (3) unless it has taken into account—

(a) The interests of any person who, in its opinion, may be directly affected by the extension; and

(b) The interests of the community in achieving adequate assessment of the effects of any proposal, policy statement, or plan; and

(c) Its duty under section 21 to avoid unreasonable delay.

(5) The extension of a time period under subsection (1) shall not have the effect of more than doubling the maximum time period specified in this Act.

(6) If a local authority or consent authority extends a time period under subsection (1), it shall without delay notify every person who, in its opinion, is directly affected by the extension of the time period, of the reasons for the decision, and of the new time limit within which any action must be completed.

(7) Where the Minister has given a direction under section 140 to call in a project or activity for decision, both the Minister and the board of inquiry appointed under section 146 to hear the matter are deemed to be consent authorities for the purposes of this section.

(8) A special tribunal appointed under section 202 to hear an application for a water conservation order is deemed to be a consent authority for the purposes of this section.

Enforcement Officers

38. Authorisation and responsibilities of enforcement officers—(1) A local authority may authorise—

(a) Any of its officers; or
(b) Any of the officers of any other local authority, or of the Ministry of Agriculture and Fisheries, or the Department of Conservation, subject to such terms and conditions as to payment of salary and expenses and as to appointment of his or her duties as may be agreed upon between the relevant authorities—

to carry out all or any of the functions and powers as an enforcement officer under this Act.

(2) A local authority may authorise any person who is—

(a) The holder of a security guard’s licence issued under section 26 of the Private Investigators and Security Guards Act 1974; or

(b) The holder of a certificate of approval issued under section 40 of that Act who is employed by a person authorised under paragraph (a)—

to exercise or carry out all or any of the functions and powers of an enforcement officer under section 327 (which relates to excessive noise).

(3) The Minister of Conservation may authorise any officers of the Department of Conservation or of a local authority to exercise and carry out the functions and powers of an enforcement officer under this Act in relation to either or both of the following:

(a) Compliance with a coastal permit issued by that Minister:

(b) Those parts of a coastal marine area which a regional coastal plan states as having significant conservation value and in respect of which that Minister is the consent authority.

(4) Any authorisation under subsection (3) to an officer of a local authority is subject to such terms and conditions as to payment of salary and expenses and as to appointment of his or her duties as may be agreed between the Minister and the local authority.

(5) The local authority or Minister shall supply every enforcement officer with a warrant, and that warrant shall clearly state the functions and powers that the person concerned has been authorised to exercise and carry out under this Act.

(6) Every enforcement officer who exercises or purports to exercise any power conferred on him or her by this Act shall have with him or her, and shall produce if required to do so, his or her warrant and evidence of his or her identity.

(7) Every enforcement officer who holds a warrant issued under this section shall, on the termination of his or her
appointment as such, surrender the warrant to the local authority or Minister, as the case may be.

Powers and Duties in Relation to Hearings

39. Hearings to be public and without unnecessary formality—(1) Where a local authority, a consent authority, or a person given authority to conduct hearings under any of sections 33, 34, 117, 146, or 202, holds a hearing in relation to—

(a) A proposed policy statement, plan, or change to a policy statement or plan; or
(b) An application for a resource consent; or
(c) An application for a review of a resource consent; or
(d) An application to change any condition of a resource consent; or
(e) An application that has been called-in; or
(f) A requirement for a designation or heritage order; or
(g) An application for a water conservation order,—the authority shall hold the hearing in public (unless permitted to do otherwise by section 42 (which relates to the protection of sensitive information) or the Local Government Official Information and Meetings Act 1987), and shall establish a procedure that is appropriate and fair in the circumstances.

(2) In determining an appropriate procedure for the purposes of subsection (1), the authority shall—

(a) Avoid unnecessary formality; and
(b) Recognise tikanga Maori where appropriate, and receive evidence written or spoken in Maori and the Maori Language Act 1987 shall apply accordingly; and
(c) Not permit any person other than the chairperson or other member of the hearing body to question any party or witness; and
(d) Not permit cross-examination.

40. Persons who may be heard at a hearing—(1) At any hearing described in section 39, the applicant, and every person who has made a submission and stated that they wished to be heard at the hearing, may speak (either personally or through a representative) and call evidence.

(2) Notwithstanding subsection (1), the authority may, if it considers that there is likely to be excessive repetition, limit the circumstances in which parties having the same interest in a matter may speak or call evidence in support.
41. **Provisions relating to hearings**—(1) The following provisions of the Commissions of Inquiry Act 1908 apply to every hearing conducted by a local authority, a consent authority, or a person given authority to conduct hearings under sections 33, 34, 117, 146, or 202:
   
   (a) Section 4, which gives powers to maintain order:
   (b) Section 4B, which relates to evidence:
   (c) Section 4D, which gives power to summon witnesses:
   (d) Section 5, which relates to the service of a summons:
   (e) Section 6, which relates to the protection of witnesses:
   (f) Section 7, which relates to allowances for witnesses.

   (2) Every summons to a witness to appear at a hearing shall be in the prescribed form and be signed by the chairperson of the hearing.

   (3) All allowances for a witness shall be paid by the party on whose behalf the witness is called.

42. **Protection of sensitive information**—(1) A local authority may, on its own motion or on the application of any party to any proceedings or class of proceedings, make an order described in subsection (2) where it is satisfied that the order is necessary—

   (a) To avoid serious offence to tikanga Maori or to avoid the disclosure of the location of waahi tapu; or
   (b) To avoid the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information, and, in the circumstances of the particular case, the importance of avoiding such offence, disclosure, or prejudice outweighs the public interest in making that information available.

   (2) A local authority may make an order for the purpose of subsection (1)—

   (a) That the whole or part of any hearing or class of hearing at which the information is likely to be referred to, shall be held with the public excluded (which order shall, for the purposes of subsections (3) to (5) of section 48 of the Local Government Official Information and Meetings Act 1987, be deemed to be a resolution passed under that section):
   (b) Prohibiting or restricting the publication or communication of any information supplied to it, or obtained by it, in the course of any proceedings, whether or not the information may be material to any proposal, application, or requirement.

   (3) An order made under subsection (2)(b) in relation to—
(a) Any matter described in subsection (1)(a) may be expressed to have effect from the commencement of any proceedings to which it relates and for an indefinite period or until such date as the local authority considers appropriate in the circumstances:

(b) Any matter described in subsection (1)(b) may be expressed to have effect from the commencement of any proceedings to which it relates but shall cease to have any effect at the conclusion of those proceedings—and upon the date that such order ceases to have effect, the provisions of the Local Government Official Information and Meetings Act 1987 shall apply accordingly in respect of any information that was the subject of any such order.

(4) Any party to any proceedings or class of proceedings before a local authority may apply to the Planning Tribunal for an order under section 279 (3)(a) cancelling or varying any order made by the local authority under this section.

(5) Where, on the application of any party to any proceedings or class of proceedings, a local authority has declined to make an order described in subsection (2), that party may apply to the Planning Tribunal for an order under section 279 (3)(b).

(6) In this section—
(a) "Information" includes any document or evidence:
(b) "Local authority" includes any community board, board of inquiry, public body, special tribunal, or any person given authority to conduct hearings under section 33 or section 34 or section 117 or section 146 or section 202.

PART V
STANDARDS, POLICY STATEMENTS, AND PLANS

National Environmental Standards

43. Regulations prescribing national environmental standards—(1) Subject to section 44, the Governor-General may from time to time, by Order in Council, make regulations, to be called national environmental standards, for either or both of the following purposes:

(a) Prescribing technical standards relating to the use, development, and protection of natural and physical resources, including standards relating to—

(i) Noise:
(ii) Contaminants:
(iii) Water quality, level, or flow:
(iv) Air quality:
(v) Soil quality in relation to the discharge of contaminants:

(b) Prescribing the methods of implementing such standards.

(2) Section 360 (2) and (3) shall apply to all regulations made under this section.

44. Restriction on power to make regulations prescribing national environmental standards—The Minister shall not recommend to the Governor-General the making of any regulations under section 43 unless the Minister has—

(a) Established a process that—
   (i) The Minister considers gives the public adequate time and opportunity to comment on the proposed subject-matter of the regulations; and
   (ii) Requires a report and recommendation to be made to the Minister on those comments and the proposed subject-matter of the regulations; and

(b) Publicly notified that report and recommendation.

National Policy Statements

45. Purpose of national policy statements (other than New Zealand coastal policy statements)—(1) The purpose of national policy statements is to state policies on matters of national significance that are relevant to achieving the purpose of this Act.

(2) In determining whether it is desirable to prepare a national policy statement, the Minister may have regard to—

(a) The actual or potential effects of the use, development, or protection of natural and physical resources:

(b) New Zealand's interests and obligations in maintaining or enhancing aspects of the national or global environment:

(c) Anything which affects or potentially affects any structure, feature, place, or area of national significance:

(d) Anything which affects or potentially affects more than one region:

(e) Anything concerning the actual or potential effects of the introduction or use of new technology or a process which may affect the environment:

(f) Anything which, because of its scale or the nature or degree of change to a community or to natural and
physical resources, may have an impact on, or is of significance to, New Zealand:

(g) Anything which, because of its uniqueness, or the irreversibility or potential magnitude or risk of its actual or potential effects, is of significance to the environment of New Zealand:

(h) Anything which is significant in terms of section 8 (Treaty of Waitangi):

(i) The need to identify practices (including the measures referred to in section 24 (h), relating to economic instruments) to implement the purpose of this Act:

(j) Any other matter related to the purpose of a national policy statement.

46. Proposed national policy statement—Where the Minister considers it desirable to issue a national policy statement—

(a) The Minister may, before publicly notifying a proposed statement under paragraph (b), define the issue to be considered and give public notice of his or her intention to prepare a proposed national policy statement on that issue:

(b) The Minister shall publicly notify a proposed national policy statement:

(c) The Minister shall appoint a board of inquiry to inquire into and report on the proposed national policy statement.

47. Board of inquiry—(1) A board of inquiry appointed under section 46 shall—

(a) Comprise not fewer than 3, and not more than 5, members; and

(b) Have a presiding member appointed either by the Minister or, if the Minister declines to do so, by the members.

(2) Every board of inquiry shall be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951 and there may, if the Minister so directs, be paid to any member of the board of inquiry, out of money appropriated by Parliament for the purpose,—

(a) Remuneration by way of fees, salary, or allowances in accordance with that Act; and

(b) Travelling allowances and travelling expenses in accordance with that Act in respect of time spent travelling in the service of the board of inquiry—
and the provisions of that Act apply accordingly.

48. Public notification of inquiry—(1) As soon as practicable after its appointment, a board of inquiry shall ensure that notice of the inquiry is—
   (a) Published in a daily newspaper in each of the cities of Auckland, Wellington, Christchurch, and Dunedin; and
   (b) Served on every local authority in New Zealand and such other persons and authorities as the board of inquiry considers appropriate; and
   (c) Given such other public notification as the board of inquiry considers appropriate.

(2) Every notice for the purposes of this section shall be in the prescribed form and shall state—
   (a) A description of the proposed national policy statement; and
   (b) That submissions on the application may be made in writing by any person; and
   (c) The closing date for submissions (which shall be not earlier than 20 working days after public notification).

49. Submissions to board of inquiry—(1) Any person may make a submission to the board of inquiry about a proposed national policy statement which is notified in accordance with section 48.

(2) Every submission shall be in writing, shall be served on the board of inquiry, and shall state whether or not the person making the submission wishes to be heard in respect of the submission, and shall also state any other matter prescribed in regulations made under this Act.

50. Summary of submissions, notification, and conduct of hearing—Sections 39 to 42, and clauses 7 and 8 of Part I of the First Schedule shall, with all necessary modifications, apply in respect of an inquiry by a board of inquiry into a proposed national policy statement as if every reference in those sections and in those clauses to—
   (a) A consent authority or a local authority were a reference to a board of inquiry; and
   (b) A proposed policy statement were a reference to the proposed national policy statement—

and the Minister and any person who made a submission under section 49 shall have the right to be heard at any such inquiry.
51. **Matters to be considered and board of inquiry's report**—(1) In considering a proposed national policy statement, a board of inquiry shall have regard to Part II, the proposed national policy statement, all submissions, and such other matters as the board of inquiry thinks fit.

(2) On completion of its inquiry, the board of inquiry shall prepare a written report on the proposed national policy statement and the matters raised by the inquiry, and shall make such recommendations to the Minister as it determines are appropriate in the circumstances.

(3) After receiving a report from a board of inquiry, the Minister shall ensure that—
   (a) A copy of the report is sent to every person who made a submission and to every local authority; and
   (b) The report is published; and
   (c) Public notice is given of where and how copies of the report can be obtained.

52. **Consideration of recommendations and approval of statement**—(1) The Minister shall consider a report and any recommendations made to him or her by a board of inquiry under section 51 and, after doing so, may (but need not) change the proposed national policy statement as he or she thinks fit.

(2) The Governor-General in Council may, on the recommendation of the Minister made after consideration of a report and any recommendations made to him or her by a board of inquiry under section 51, approve any national policy statement.

(3) The Minister shall, as soon as practicable after a national policy statement has been so approved,—
   (a) Issue the statement by notice in the *Gazette*; and
   (b) Lay a copy of that statement before the House of Representatives.

53. **Changes to or review or revocation of national policy statements**—The Minister may review, change, or revoke a national policy statement after complying with the same procedure as is set out in sections 46 to 52 in relation to the preparation of a national policy statement.

54. **Publication of national policy statements**—When a national policy statement is issued, reviewed, changed, or revoked, the Minister shall—
   (a) Publish the statement, review, change, or revocation in whatever form he or she thinks appropriate; and
(b) Send a copy of it to every local authority; and
(c) Give public notice of its issue, review, change, or revocation.

55. Local authority recognition of national policy statements—(1) In achieving the purpose of this Act, on receipt of a national policy statement, or a change to, or revocation of, a national policy statement, where the national policy statement deals with any matter relevant to the exercise of a local authority’s functions, powers, or duties under this Act, the local authority shall—
(a) Where there is any inconsistency or conflict between the national policy statement as so issued, changed, or revoked and any local authority statement or plan, in accordance with the First Schedule initiate all necessary changes to the policy statement or plan in order to remove that inconsistency or conflict:
(b) Take all such other action as may be necessary in order to implement the national policy statement as so issued or changed, including—
   (i) Initiating a change to any policy statement or plan of that local authority in accordance with the First Schedule (or, in the case of a regional council, preparing a regional plan), to address any issue or achieve any objective of the national policy statement:
   (ii) Taking such other action as may be specified in the national policy statement.
(2) Every local authority shall, as soon as practicable after receipt of a national policy statement or of a change to a national policy statement, give public notice of its decision in relation to that statement or change (including a decision to take no action where this Act does not require otherwise) and the reasons for that decision.

New Zealand Coastal Policy Statements

56. Purpose of New Zealand coastal policy statements—The purpose of a New Zealand coastal policy statement is to state policies in order to achieve the purpose of this Act in relation to the coastal environment of New Zealand.

57. Preparation of New Zealand coastal policy statements—(1) There shall at all times be at least one New Zealand coastal policy statement prepared and recommended by the Minister of Conservation in the manner set out in
sections 46 to 52 as if references in those sections to the Minister were references to the Minister of Conservation and references to a national policy statement were references to a New Zealand coastal policy statement.

(2) Sections 53, 54, and 55, with all necessary modifications, apply to a New Zealand coastal policy statement as if it were a national policy statement and as if references in those sections to the Minister were references to the Minister of Conservation.

58. Contents of New Zealand coastal policy statements—A New Zealand coastal policy statement may state policies about any one or more of the following matters:

(a) National priorities for the preservation of the natural character of the coastal environment of New Zealand, including protection from inappropriate subdivision, use, and development:

(b) The protection of the characteristics of the coastal environment of special value to the tangata whenua including waahi tapu, tauranga waka, mahinga maataitai, and taonga raranga:

(c) Activities involving the subdivision, use, or development of areas of the coastal environment:

(d) The Crown's interests in land of the Crown in the coastal marine area:

(e) The matters to be included in any or all regional coastal plans in regard to the preservation of the natural character of the coastal environment, including the specific circumstances in which the Minister of Conservation will decide resource consent applications relating to—

(i) Types of activities which have or are likely to have a significant or irreversible adverse effect on the coastal marine area; or

(ii) Areas in the coastal marine area that have significant conservation value:

(f) The implementation of New Zealand's international obligations affecting the coastal environment:

(g) The procedures and methods to be used to review the policies and to monitor their effectiveness:

(h) Any other matter relating to the purpose of a New Zealand coastal policy statement.

Regional Policy Statements

59. Purpose of regional policy statements—The purpose of a regional policy statement is to achieve the purpose of the
Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.

60. Preparation and change of regional policy statements—(1) There shall at all times be for each region one regional policy statement prepared by the regional council in the manner set out in the First Schedule.

(2) A regional policy statement may be changed in the manner set out in the First Schedule, at the instigation of a Minister of the Crown, the regional council, or any territorial authority within or partly within the region.

61. Matters to be considered by regional council—(1) A regional council shall prepare and change its regional policy statement in accordance with its functions under section 30, the provisions of Part II, and its duty under section 32 and any regulations.

(2) In addition to the requirements of section 62 (2), when preparing or changing a regional policy statement, the regional council shall have regard to—

(a) Any—

(i) Management plans and strategies prepared under other Acts; and
(ii) Relevant planning document recognised by an iwi authority affected by the regional policy statement; and
(iii) Regulations relating to the conservation or management of taïapure or fisheries; and
(iv) Regulations made under this Act, including regulations made under section 43—

(b) The extent to which the regional policy statement needs to be consistent with the policy statements and plans of adjacent regional councils.

62. Contents of regional policy statements—(1) A regional policy statement shall make provision for such of the matters set out in Part I of the Second Schedule, (and such of the matters set out in Part II of that Schedule as are of regional significance), that are appropriate to the circumstances of the region, and shall state—
(a) The significant resource management issues of the region; and
(b) Matters of resource management significance to iwi authorities; and
(c) The objectives sought to be achieved by the statement; and
(d) The policies in regard to those significant issues and objectives, and an explanation of those policies; and
(e) The methods used or to be used to implement the policies; and
(f) The principal reasons for adopting the objectives, policies, and methods of implementation set out in the statement; and
(g) The environmental results anticipated from implementation of those policies and methods; and
(h) The processes to be used to deal with issues which cross local authority boundaries, and issues between territorial authorities or between regions; and
(i) The procedures to be used to review the matters set out in paragraphs (a) to (h), and to monitor the effectiveness of the statement as a means of achieving its objectives and policies; and
(j) Any other information that the regional council considers appropriate; and
(k) Such additional matters as may be appropriate for the purpose of fulfilling the regional council’s functions, powers, and duties under this Act.

(2) A regional policy statement shall not be inconsistent with any national policy statement, New Zealand coastal policy statement, or water conservation order.

Regional Plans

68. Purpose of regional plans—(1) The purpose of the preparation, implementation, and administration of regional plans is to assist a regional council to carry out any of its functions in order to achieve the purpose of this Act.

(2) Without limiting subsection (1), the purpose of the preparation, implementation, and administration of regional coastal plans is to assist a regional council, in conjunction with the Minister of Conservation, to achieve the purpose of this Act in relation to the coastal marine area of that region.

64. Preparation and change of regional coastal plans—(1) There shall at all times be one regional coastal plan for the
coastal marine area of each region prepared in the manner set out in the First Schedule.

(2) A regional coastal plan may form part of a regional plan where it is considered appropriate in order to promote the integrated management of a coastal marine area and any related part of the coastal environment.

(3) Where a regional coastal plan forms part of a regional plan, the Minister of Conservation shall approve only that part which relates to the coastal marine area.

(4) A regional coastal plan may be changed in the manner set out in the First Schedule.

65. Preparation and change of other regional plans—

(1) A regional council may have, in addition to its regional coastal plan, one or more regional plans prepared in the manner set out in the First Schedule.

(2) A regional plan may—

(a) Be prepared in respect of any aspect of any function for which the regional council is responsible; and

(b) Apply to the whole or any part of a region.

(3) Without limiting the power of a regional council to prepare a regional plan at any time, a regional council shall consider the desirability of preparing a regional plan whenever any of the following circumstances or considerations arise or are likely to arise:

(a) Any significant conflict between the use, development, or protection of natural and physical resources or the avoidance or mitigation of such conflict:

(b) Any significant need or demand for the protection of natural and physical resources or of any site, feature, place, or area of regional significance:

(c) Any threat from natural hazards or any actual or potential adverse effects of the storage, use, disposal, or transportation of hazardous substances which may be avoided or mitigated:

(d) Any foreseeable demand for or on natural and physical resources:

(e) Any significant concerns of tangata whenua for their cultural heritage in relation to natural and physical resources:

(f) The restoration or enhancement of any natural and physical resources in a deteriorated state or the avoidance or mitigation of any such deterioration:

(g) The implementation of a national policy statement or New Zealand coastal policy statement:
(h) Any use of land or water that has actual or potential adverse effects on soil conservation or air quality or water quality:

(i) Any other significant issue relating to any function of the regional council under this Act.

(4) Any person may request a regional council to prepare or change a regional plan in the manner set out in the First Schedule.

(5) A regional plan may be changed in the manner set out in the First Schedule.

66. Matters to be considered by regional council—(1) A regional council shall prepare and change any regional plan in accordance with its functions under section 30, the provisions of Part II, its duty under section 32, and any regulations.

(2) In addition to the requirements of section 67 (2), when preparing or changing any regional plan, the regional council shall have regard to—

(a) Any proposed regional policy statement in respect of the region; and

(b) The Crown's interests in land of the Crown in the coastal marine area; and

(c) Any—

(i) Management plans and strategies prepared under other Acts; and

(ii) Relevant planning document recognised by an iwi authority affected by the regional plan; and

(iii) Regulations relating to the conservation or management of taiapure or fisheries; and

(iv) Regulations made under this Act, including regulations made under section 43,—
to the extent that their content has a bearing on resource management issues of the region; and

(d) The extent to which the regional plan needs to be consistent with the regional policy statements and plans, or proposed regional policy statements and proposed plans, of adjacent regional councils.

67. Contents of regional plans—(1) A regional plan may make provision for such of the matters set out in Part I of the Second Schedule as are appropriate to the circumstances of the region, and shall state—

(a) The issues to be addressed in the plan; and

(b) The objectives sought to be achieved by the plan; and
(c) The policies in regard to the issues and objectives, and an explanation of those policies; and
(d) The methods being or to be used to implement the policies, including any rules; and
(e) The principal reasons for adopting the objectives, policies, and methods of implementation set out in the plan; and
(f) The information to be submitted with an application for a resource consent, including the circumstances in which the powers under section 92 may be used; and
(g) The environmental results anticipated from the implementation of these policies and methods; and
(h) The processes to be used to deal with issues which cross local authority boundaries, and issues between territorial authorities and between regions; and
(i) The procedures to be used to review the matters set out in paragraphs (a) to (h) and to monitor the effectiveness of the plan as a means of achieving its objectives and policies; and
(j) Any other information that the regional council considers appropriate; and
(k) Such additional matters as may be appropriate for the purpose of fulfilling the regional council's functions, powers, and duties under this Act.

(2) A regional plan shall not be inconsistent with—
(a) Any national policy statement or New Zealand coastal policy statement; or
(b) Any water conservation order; or
(c) The regional policy statement or any other regional plan of the region concerned.

68. Regional rules—(1) A regional council may, for the purpose of—
(a) Carrying out its functions under this Act (other than those described in paragraphs (a) and (b) of section 30 (1)); and

(b) Achieving the objectives and policies of the plan,—
include in a regional plan rules which prohibit, regulate, or allow activities.

(2) Every such rule shall have the force and effect of a regulation in force under this Act but, to the extent that any such rule is inconsistent with any such regulation, the regulation shall prevail.

(3) In making a rule, the regional council shall have regard to the actual or potential effect on the environment of activities,
including, in particular, any adverse effect; and rules may accordingly specify permitted activities, controlled activities, discretionary activities, non-complying activities, prohibited activities, and restricted coastal activities.

(4) Notwithstanding subsection (3), a rule may specify an activity as a restricted coastal activity only if the rule is in a regional coastal plan and the Minister of Conservation has required the activity to be so specified on the grounds that the activity—

(a) Has or is likely to have significant or irreversible adverse effects on a coastal marine area; or
(b) Occurs or is likely to occur in an area having significant conservation value.

(5) A rule may—

(a) Apply throughout the region or a part of the region:
(b) Make different provision for—
   (i) Different parts of the region; or
   (ii) Different classes of effects arising from an activity:
(c) Apply all the time or for stated periods or seasons:
(d) Be specific or general in its application:
(e) Require a resource consent to be obtained for any activity not specifically referred to in the plan.

(6) Where a regional rule affects the use of particular areas of land, the regional council shall notify the relevant territorial authority of the rule, and the territorial authority shall ensure that the rule is annexed to, and appropriate annotations are made in, every copy of the authority's district plan that is under the authority's control.

69. Rules relating to water quality—(1) Where a regional council—

(a) Provides in a plan that certain waters are to be managed for any purpose described in respect of any of the classes specified in the Third Schedule; and
(b) Includes rules in the plan about the quality of water in those waters,—

the rules shall require the observance of the standards specified in that Schedule in respect of the appropriate class or classes unless, in the council's opinion, those standards are not adequate or appropriate in respect of those waters in which case the rules may state standards that are more stringent or specific.

(2) Where a regional council provides in a plan that certain waters are to be managed for any purpose for which the classes
specified in the Third Schedule are not adequate or appropriate, the council may state in the plan new classes and standards about the quality of water in those waters.

(3) Subject to the need to allow for reasonable mixing of a discharged contaminant or water, a regional council shall not set standards in a plan which result, or may result, in a reduction of the quality of the water in any waters at the time of the public notification of the proposed plan unless it is consistent with the purpose of this Act to do so.

70. Rules about discharges—(1) Before a regional council includes in a regional plan a rule that allows as a permitted activity—

(a) A discharge of a contaminant or water into water; or
(b) A discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water,—

the regional council shall be satisfied that none of the following effects are likely to arise in the receiving waters, after reasonable mixing, as a result of the discharge of the contaminant (either by itself or in combination with the same, similar, or other contaminants):

(c) The production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials:
(d) Any conspicuous change in the colour or visual clarity:
(e) Any emission of objectionable odour:
(f) The rendering of fresh water unsuitable for consumption by farm animals:
(g) Any significant adverse effects on aquatic life.

(2) Before a regional council includes in a regional plan a rule requiring the adoption of the best practicable option to prevent or minimise any actual or likely adverse effect on the environment of any discharge of a contaminant, the regional council shall be satisfied that, having regard to—

(a) The nature of the discharge and the receiving environment; and
(b) Other alternatives, including a rule requiring the observance of minimum standards of quality of the environment,—

the inclusion of that rule in the plan is the most efficient and effective means of preventing or minimising those adverse effects on the environment.
71. Rules about esplanade reserves on reclamation—
(1) Subject to subsection (2), a regional council may include in its regional plan a rule which makes provision (either generally or in a particular locality or in particular circumstances) for—
(a) Esplanade reserves required to be set apart under section 246 (3) along the mark of mean high water springs of the sea, or along the margin of any lake, or along the bank of any river, to be shown on a plan of survey submitted for approval under section 245 to be of a width greater or less than 20 metres:
(b) Section 245 (3) not to apply in respect of land along the bank of any river, or along the margin of any lake, or along the mark of mean high water springs of the sea.

(2) Before a regional council includes in a regional plan a rule under subsection (1), the regional council shall be satisfied that—
(a) In the case of a rule made under subsection (1) (a), the value of the esplanade reserve, in terms of the purposes specified in section 229, will not be significantly diminished:
(b) In the case of a rule made under subsection (1) (b)—
   (i) By reason of security, public safety, or other exceptional circumstances it would not be appropriate for section 245 (3) to apply; or
   (ii) The land has little or no value in terms of the purposes specified in section 229; or
   (iii) Any value the land has in those terms can be adequately provided by other means.

District Plans

72. Purpose of district plans—The purpose of the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act.

78. Preparation and change of district plans—(1) There shall at all times be one district plan for each district prepared by the territorial authority in the manner set out in the First Schedule.

(2) Any person may request a territorial authority to change a district plan, and the plan may be changed in the manner set out in the First Schedule.

(3) A district plan may be prepared in territorial sections.
74. Matters to be considered by territorial authority—
(1) A territorial authority shall prepare and change its district plan in accordance with its functions under section 31, the provisions of Part II, its duty under section 32, and any regulations.

(2) In addition to the requirements of section 75 (2), when preparing or changing a district plan, a territorial authority shall have regard to—
(a) Any proposed regional policy statement or regional plan on a matter of regional significance in respect of its district; and
(b) Any—
(i) Management plans and strategies prepared under other Acts; and
(ii) Relevant planning document recognised by an iwi authority affected by the district plan; and
(iii) Regulations relating to the conservation or management of taiapure or fisheries,—to the extent that their content has a bearing on resource management issues of the district; and
(c) The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.

75. Contents of district plans—(1) A district plan shall make provision for such of the matters set out in Part II of the Second Schedule as are appropriate to the circumstances of the district, and shall state—
(a) The significant resource management issues of the district; and
(b) The objectives sought to be achieved by the plan; and
(c) The policies in regard to the issues and objectives, and an explanation of those policies; and
(d) The methods being or to be used to implement the policies, including any rules; and
(e) The principal reasons for adopting the objectives, policies, and methods of implementation set out in the plan; and
(f) The information to be submitted with an application for a resource consent, including the circumstances in which the powers under section 92 may be used; and
(g) The environmental results anticipated from the implementation of these policies and methods; and
(h) The processes to be used to deal with issues which cross territorial boundaries; and
(i) The procedures to be used to review the matters set out in paragraphs (a) to (h), and to monitor the effectiveness of the plan as a means of achieving its objectives and policies; and

(j) Any other information that the territorial authority considers appropriate; and

(k) Such additional matters as may be appropriate for the purpose of fulfilling the territorial authority’s functions, powers, and duties under this Act.

(2) A district plan shall not be inconsistent with—

(a) Any national policy statement or New Zealand coastal policy statement; or

(b) Any water conservation order; or

(c) The regional policy statement, or any regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part IV.

76. District rules—(1) A territorial authority may, for the purpose of—

(a) Carrying out its functions under this Act; and

(b) Achieving the objectives and policies of the plan,—

include in its district plan rules which prohibit, regulate, or allow activities.

(2) Every such rule shall have the force and effect of a regulation in force under this Act but, to the extent that any such rule is inconsistent with any such regulation, the regulation shall prevail.

(3) In making a rule, the territorial authority shall have regard to the actual or potential effect on the environment of activities including, in particular, any adverse effect; and rules may accordingly specify permitted activities, controlled activities, discretionary activities, non-complying activities, and prohibited activities.

(4) A rule may—

(a) Apply throughout a district or a part of a district:

(b) Make different provision for—

(i) Different parts of the district; or

(ii) Different classes of effects arising from an activity:

(c) Apply all the time or for stated periods or seasons:

(d) Be specific or general in its application:

(e) Require a resource consent to be obtained for any activity not specifically referred to in the plan.
77. Rules about esplanade reserves on subdivision and road stopping—(1) Subject to subsection (2), a territorial authority may include in its district plan a rule which makes provision (either generally or in a particular locality or in particular circumstances) for—

(a) Esplanade reserves required to be set aside under section 230 of this Act or section 345 (3) of the Local Government Act 1974 along the mark of mean high water springs of the sea, or along the margin of any lake, or along the bank of any river, to be of a width greater or less than 20 metres:

(b) Section 230 of this Act and section 345 (3) of the Local Government Act 1974 not to apply in respect of land along the bank of any river, or along the margin of any lake, or along the mark of mean high water springs of the sea.

(2) Before a territorial authority includes in a district plan a rule under subsection (1), the territorial authority shall be satisfied that—

(a) In the case of a rule made under subsection (1) (a), the value of the esplanade reserve, in terms of the purposes specified in section 229, will not be significantly diminished:

(b) In the case of a rule made under subsection (1) (b)—

(i) By reason of security, public safety, minor boundary adjustment, or other exceptional circumstances, it would not be appropriate for section 230 of this Act and section 345 (3) of the Local Government Act 1974 to apply; or

(ii) The land has little or no value in terms of the purposes specified in section 229; or

(iii) Any value the land has in those terms can be adequately provided by other means.

Miscellaneous Provisions

78. Withdrawal of proposed policy statements and plans—(1) Where a local authority or other person has initiated the preparation of a policy statement or plan, or any change to a policy statement or plan, the local authority or person may withdraw its proposal to prepare or change the policy statement or plan at any time—

(a) Where no appeal has been lodged against the proposed policy statement or plan, or every such appeal has been withdrawn, before the policy statement or plan has been approved by the local authority; or
(b) Where an appeal against any proposed policy statement or plan has been lodged, before any Planning Tribunal hearing commences.

(2) Where notice of withdrawal is given under subsection (1) by a person other than the local authority, preparation of the policy statement or plan shall cease unless the local authority directs otherwise.

(3) The local authority shall give public notice of any withdrawal under subsection (1), including the reasons for the withdrawal.

79. Review of policy statements and plans—(1) Every regional council shall commence a full review of its regional policy statement, and each of its regional plans, not later than 10 years after the statement or plan became operative.

(2) Every territorial authority shall commence a full review of its district plan not later than 10 years after the plan became operative.

(3) If, after reviewing a policy statement or plan under this section, a regional council or territorial authority considers—

(a) That the statement or plan requires change or replacement, it shall change or replace the statement or plan in the manner set out in the First Schedule and this Part:

(b) That the statement or plan can remain without change or replacement, it shall publicly notify that statement or plan as if it were a proposed policy statement or plan in the manner set out in the First Schedule and this Part.

(4) When a regional council or territorial authority is reviewing a policy statement or plan, it shall review all sections of, and all changes to, the policy statement or plan regardless of when those sections or changes became operative.

(5) A policy statement or plan shall not cease to be operative by virtue of being due for review or while it is being reviewed.

(6) The obligations of each regional council and territorial authority under this section are in addition to its duty to monitor under section 35.

80. Local authorities may combine to prepare, etc., plans—(1) Two or more territorial authorities may agree to jointly prepare, implement, and administer a combined district plan for the whole or any part of their combined districts.
(2) Two or more regional councils may agree to jointly prepare, implement, and administer a combined regional plan for the whole or any part of their combined regions.

(3) One or more regional councils or territorial authorities may agree to jointly prepare, implement, and administer a combined regional and district plan for the whole or any part of their respective regions or districts.

(4) A local authority that is both a regional council and a territorial authority may prepare, implement, and administer a combined regional and district plan for the whole or any part of its region or district.

(5) The relevant local authorities shall consider the preparation of a combined regional or district plan under this section whenever significant cross-boundary issues relating to the use, development, or protection of natural and physical resources arise or are likely to arise.

(6) Such a combined plan may be prepared after consideration under subsection (5) or in any other case where the local authorities concerned consider it appropriate to do so.

(7) Section 114s (which relates to joint committees) of the Local Government Act 1974 applies to the appointment and conduct of any joint committee set up for the purposes of this section.

(8) Where a combined plan is prepared under this section—
     (a) It shall be prepared in accordance with the First Schedule; and
     (b) When approved by a local authority (whether or not approved by any of the other local authorities), it shall be deemed to be a plan separately prepared and approved by that authority for its region or district for the purposes of this Act.

81. Boundary adjustments—(1) Where the boundaries of any region or district are altered, and any area comes within the jurisdiction of a different local authority,—
     (a) The plan or proposed plan that applied to the area before the alteration of the boundaries shall continue to apply to that area and shall, in so far as it applies to the area, be deemed to be part of the plan or proposed plan of the different local authority:
     (b) Any activity that may, before the alteration of the boundaries, have been undertaken under section 19 (changes to plans which will allow activities) may continue to be undertaken as if the alteration of the boundaries had not taken place.
(2) Where the boundaries of any district are altered so as to include within that district any area not previously within the boundaries of any other district, no person may use that land (as defined in section 9) unless expressly allowed by a resource consent, until a district plan provides otherwise.

(3) A territorial authority shall, as soon as practicable but within 2 years, make such changes to its district plans as it considers necessary to cover any area that comes within its jurisdiction, and, after the changes are made, this section shall cease to apply.

82. Inconsistencies between policy statements and plans—(1) If there is a dispute about whether there is an inconsistency between—

(a) A national policy statement, a New Zealand coastal policy statement, or a water conservation order and—

(i) A regional policy statement; or
(ii) A regional plan; or
(iii) A district plan; or

(b) A regional policy statement or a regional plan and a district plan (including any rules of a regional plan or district plan) on a matter of regional significance—any Minister, regional council, or territorial authority responsible for any relevant national policy statement, New Zealand coastal policy statement, policy statement, plan, or order may refer the dispute to the Planning Tribunal for a decision resolving the matter.

(2) Except as provided in subsection (3) if, after considering a matter referred to it under subsection (1), the Planning Tribunal considers that there is an inconsistency, it shall order the authority responsible for the policy statement or plan to initiate a change to it.

(3) If, after considering a matter referred to it under subsection (1), the Planning Tribunal considers that there is an inconsistency but that it is of minor significance which does not affect the general intent and purpose of the policy statement, plan, or order concerned, the Planning Tribunal may allow the inconsistency to remain.

(4) If there is a dispute about whether it is necessary to initiate a change to any regional policy statement or any plan to address any issue or achieve any objective of a national policy statement or New Zealand coastal policy statement, any Minister of the Crown or local authority responsible for any relevant national policy statement, New Zealand coastal policy
statement, policy statement, or plan may refer the dispute to the Planning Tribunal for a decision resolving the matter.

(5) If, after considering the matter referred to it under subsection (4), the Planning Tribunal considers that it is necessary to initiate a change to any regional policy statement or any plan to address any issue or achieve any objective of a national policy statement or New Zealand coastal policy statement the Tribunal shall—
(a) Indicate the general nature of the change proposed; and
(b) Order the local authority responsible for the policy statement or plan to initiate a change to it.

83. Procedural requirements deemed to be observed— A policy statement or plan that is held out by a local authority as being operative shall be deemed to have been prepared and approved in accordance with the First Schedule and shall not be challenged except by an application for an enforcement order under section 316 (3).

84. Local authorities to observe their own policy statements and plans—(1) While a policy statement or a plan is operative, the regional council or territorial authority concerned, and every consent authority, shall observe and, to the extent of its authority, enforce the observance of the policy statement or plan.
(2) No purported grant of a resource consent, and no waiver or sufferance or departure from a policy statement or plan, whether written or otherwise, shall, unless authorised by this Act, have effect in so far as it is contrary to subsection (1).

85. Compensation not payable in respect of controls on land—(1) An interest in land shall be deemed not to be taken or injuriously affected by reason of any provision in a plan unless otherwise provided for in this Act.
(2) Notwithstanding subsection (1), any person having an interest in land to which any provision or proposed provision of a plan or proposed plan applies, and who considers that the provision or proposed provision would render that interest in land incapable of reasonable use, may challenge that provision or proposed provision on those grounds—
(a) In a submission made under clause 6 of the First Schedule in respect of a proposed plan or change to a plan; or
(b) In an application to change a plan made under sections 64 (4), 65 (4), or 73 (2) and under clause 23 of the First Schedule.
(3) Where, having regard to Part III (including the effect of section 9(1)) and the effect of subsection (1), the Planning Tribunal determines that a provision or proposed provision of a plan or a proposed plan renders any land incapable of reasonable use, and places an unfair and unreasonable burden on any person having an interest in the land, the Tribunal, on application by any such person to change a plan made under section 64(4) or section 65(4) or section 75(2) or under clause 23 of the First Schedule, may—

(a) in the case of a plan or proposed plan (other than a regional coastal plan), direct the local authority to modify, delete, or replace the provision; and

(b) in the case of a regional coastal plan, report its findings to the applicant, the regional council concerned, and the Minister of Conservation, which report may include a direction to the regional council to modify, delete, or replace the provision.

(4) Any direction given or report made under subsection (3) shall have effect under this Act as if it were made or given under clause 15 of the First Schedule.

(5) In subsections (2) and (3), a “provision of a plan or proposed plan” does not include a designation or a heritage order or a requirement for a designation or heritage order.

(6) In subsections (2) and (3), the term “reasonable use”, in relation to any land, includes the use or potential use of the land for any activity whose actual or potential effects on any aspect of the environment or on any person other than the applicant would not be significant.

(7) Nothing in subsection (3) limits the powers of the Planning Tribunal under clause 15 of the First Schedule on a reference under clause 14.

86. Power to acquire land—(1) In addition to any power it may have to acquire land for any public work which it is authorised to undertake, a regional council or territorial authority may, while its plan is operative, acquire by agreement under the Public Works Act 1981 any land (including any interest in land) in its region or district, if, in accordance with the plan, the regional council or territorial authority considers it necessary or expedient to do so for any of the following purposes:

(a) terminating or preventing any non-complying or prohibited activity in relation to that land:
(b) Facilitating activity in relation to that land that is in accordance with the objectives and policies of the plan.

(2) Except as provided in section 185 and section 198, nothing in any plan shall impose on any regional council or territorial authority any obligation to acquire any land.

(3) Every person having any interest in land taken for any purpose authorised by subsection (1) shall be entitled to all compensation which that person would be entitled to if the land had been acquired for a public work under the Public Works Act 1981.

PART VI
RESOURCE CONSENTS

87. Types of resource consents—In this Act, the term "resource consent" means any of the following:

(a) A consent to do something that otherwise would contravene section 9 or section 13 (in this Act called a "land use consent");

(b) A consent to do something that otherwise would contravene section 11 (in this Act called a "subdivision consent");

(c) A consent to do something in a coastal marine area that otherwise would contravene any of sections 12, 14, and 15 (in this Act called a "coastal permit");

(d) A consent to do something (other than in a coastal marine area) that otherwise would contravene section 14 (in this Act called a "water permit");

(e) A consent to do something (other than in a coastal marine area) that otherwise would contravene section 15 (in this Act called a "discharge permit").

Application for Resource Consent

88. Making an application—(1) Any person may, in the manner set out in subsection (4), apply to the relevant local authority for a resource consent.

(2) No application shall be made for a resource consent—

(a) For a prohibited activity; or

(b) For any activity described as a prohibited activity by a proposed plan once the time for making or lodging submissions or appeals against the proposed rule has expired and—

(i) No such submissions or appeals have been made or lodged; or
(ii) All such submissions and appeals have been withdrawn or dismissed.

(3) An application may be made for a resource consent—
(a) For a controlled activity or a discretionary activity or a non-complying activity, under a plan or proposed plan; or
(b) Where there is no plan or proposed plan, for an activity for which a consent is required under Part III.

(4) An application for a resource consent (other than for a controlled activity) shall be in the prescribed form and shall include—
(a) A description of the activity for which consent is sought, and its location; and
(b) An assessment of any actual or potential effects that the activity may have on the environment, and the ways in which any adverse effects may be mitigated; and
(c) Any information required to be included in the application by a plan or regulations; and
(d) A statement specifying all other resource consents that the applicant may require from any consent authority in respect of the activity to which the application relates, and whether or not the applicant has applied for such consents; and
(e) Where the application is for a subdivision consent, the information specified in section 219.

(5) An application for a resource consent for a controlled activity shall include those matters described in subsection (4) (a), (c), and (d) and, in the case of a subdivision consent, the matter described in subsection (4) (e), and shall also include such assessment as may be specified in the plan of any actual or potential effects that the activity may have on the environment and the ways in which those adverse effects may be mitigated.

(6) Any assessment required under subsection (4) (b) or subsection (5)—
(a) Shall be in such detail as corresponds with the scale and significance of the actual or potential effects that the activity may have on the environment; and
(b) Shall be prepared in accordance with the Fourth Schedule.

(7) Without limiting subsection (4) or section 92, an application for a resource consent for reclamation shall be accompanied by adequate information to accurately show the area proposed to be reclaimed, including its size and location, and the portion of that area (if any) to be set apart as an esplanade reserve under section 246 (3).
89. Applications to territorial authorities for resource consents where land is in the coastal marine area—
(1) Where an application for a subdivision consent is made to a territorial authority and any part of the land proposed to be subdivided is in the coastal marine area, the territorial authority may hear and decide the application as if the whole of that land were part of the district, and the provisions of this Act shall apply accordingly.

(2) Where—
(a) An application is made to a territorial authority for a resource consent for an activity which an applicant intends to undertake within the district of that authority once the proposed location of the activity has been reclaimed; and

(b) On the date the application is made the proposed location of the activity is still within the coastal marine area,—then the authority may hear and decide the application as if the application related to an activity within its district, and the provisions of this Act shall apply accordingly.

(3) Section 116 (2) shall apply to every resource consent that is granted in accordance with subsection (2).

90. Distribution of application to other authorities—
(1) A consent authority (other than a regional council) that receives an application for a resource consent shall, if the application is required to be notified in accordance with section 93, forward a copy of the application to the regional council for the region in which the activity to which the application relates will occur.

(2) A regional council that receives an application for a resource consent shall forward a copy of the application to—
(a) The territorial authority for the district in which the activity to which the application relates will occur; and

(b) Where the activity will occur in the coastal marine area, the Minister of Conservation.

91. Deferral pending application for additional consents—(1) A consent authority may determine not to proceed with the notification or hearing of an application for a resource consent if it considers on reasonable grounds that—
(a) Other resource consents under this Act will also be required in respect of the proposal to which the application relates; and
(b) It is appropriate, for the purpose of better understanding the nature of the proposal, that applications for any one or more of those other resource consents be made before proceeding further.

(2) Where a consent authority makes a determination under subsection (1), it shall forthwith notify the applicant of the determination.

(3) The applicant may apply to the Planning Tribunal for an order directing that any determination under this section be revoked.

Further Information

92. Further information may be required—(1) A consent authority may, at any reasonable time before the hearing of an application, by written notice to an applicant for a resource consent, require the applicant to provide further information relating to the application.

(2) Where the consent authority is of the opinion that any significant adverse effect on the environment may result from an activity to which an application for a resource consent relates, the consent authority may—

(a) Require an explanation of—

(i) Any possible alternative locations or methods for undertaking the activity and the applicant’s reasons for making the proposed choice; and

(ii) The consultation undertaken by the applicant; and

(b) Where the application is for a discharge permit or a coastal permit to do something that would otherwise contravene section 15 (relating to discharge of contaminants), require an explanation of—

(i) The nature of the discharge and the sensitivity of the proposed receiving environment to adverse effects, and the applicant’s reasons for making the proposed choice; and

(ii) Any possible alternative methods of discharge, including discharge into any other receiving environment; and

(c) Commission a report on any matters raised in relation to the application, including a review of any information provided in an application under section 88 (4) or under this section.

(3) Where a consent authority seeks further information under subsection (2),—
(a) It may postpone either the notification of, or the hearing on, the application until the information is received; and

(b) It shall make that information available for public inspection at its principal office at least 15 working days before the hearing; and

(c) It shall, upon receipt of any report that it commissioned, send a copy of the report to the applicant at least 15 working days before the hearing.

(4) Further information may be required under this section only if the information is necessary to enable the consent authority to better understand the nature of the activity in respect of which the application for a resource consent is made, the effect it will have on the environment, or the ways in which any adverse effects may be mitigated.

Notification of Applications

93. Notification of applications—(1) Once a consent authority is satisfied that it has received adequate information, it shall ensure that notice of every application for a resource consent made to it in accordance with this Act is—

(a) Served on every person (other than the applicant) who is known by the authority to be an owner or occupier of any land to which the application relates; and

(b) Served on the Minister of Conservation if the application relates to land which adjoins any coastal marine area; and

(c) Served on the Historic Places Trust if the application relates to land subject to a heritage order or otherwise identified in the plan as having heritage value; and

(d) Served on the Minister of Fisheries if the application relates to marine farming within the meaning of the Marine Farming Act 1971 or to a fish farm within the meaning of the Freshwater Fish Farming Regulations 1983; and

(e) Served on such persons who are, in its opinion, likely to be directly affected by the application, including adjacent owners and occupiers of land, where appropriate; and

(f) Served on such local authorities, iwi authorities, and other persons or authorities as it considers appropriate; and

(g) Publicly notified; and
(h) Affixed in a conspicuous place on or adjacent to the site to which the application relates, unless it is impracticable or unreasonable to do so; and

(i) Given in such other manner as it considers appropriate—unless the application does not need to be notified in terms of section 94.

(2) A notice under subsection (1) shall be in the prescribed form and shall—

(a) Where it is to be served in accordance with paragraphs (a) to (e) of subsection (1), contain sufficient information to enable a recipient, without reference to other information, to understand the general nature of the application and whether it will affect him or her; and

(b) Where it is to be published or given in accordance with paragraphs (f) to (h) of subsection (1), contain a description of the application including the location (as it is commonly known) of the proposed activity; and

(c) State that submissions on the application may be made in writing by any person; and

(d) State the closing date for the receipt of submissions by the consent authority under section 97; and

(e) State that a copy of every submission must be served on the applicant; and

(f) State the place where the application and accompanying information may be viewed and the addresses for service of the consent authority and the applicant.

94. Applications not requiring notification—(1) An application for—

(a) A subdivision consent need not be notified in accordance with section 93, if the subdivision is a controlled activity:

(b) A coastal permit or a land use consent need not be notified in accordance with section 93, if the activity to which the application relates is a controlled activity and the plan expressly permits consideration of the application without the need to obtain the written approval of affected persons:

(c) Any other resource consent that relates to a controlled activity need not be notified in accordance with section 93, if—

(i) The activity to which the application relates is a controlled activity; and
(ii) Written approval has been obtained from every person who, in the opinion of the consent authority, may be adversely affected by the granting of the resource consent unless, in the authority's opinion, it is unreasonable in the circumstances to require the obtaining of every such approval.

(2) An application for a resource consent need not be notified in accordance with section 93, if the application relates to a discretionary activity or a non-complying activity and—

(a) The consent authority is satisfied that the adverse effect on the environment of the activity for which consent is sought will be minor; and

(b) Written approval has been obtained from every person whom the consent authority is satisfied may be adversely affected by the granting of the resource consent unless the authority considers it is unreasonable in the circumstances to require the obtaining of every such approval.

(3) An application for a resource consent need not be notified in accordance with section 93, if the application is for a resource consent to do something that would otherwise contravene any of sections 12 (1), 13, 14 (1), or 15 (1) and—

(a) There is no relevant plan or proposed plan; and

(b) The consent authority is satisfied that the adverse effect on the environment of the activity for which the consent is sought will be minor; and

(c) Written approval has been obtained from every person who, in the opinion of the consent authority, may be adversely affected by the granting of the resource consent unless, in the authority's opinion, it is unreasonable in the circumstances to require the obtaining of every such approval.

(4) In determining whether or not the adverse effect on the environment of any activity will be minor for the purposes of subsection (2) (a) or subsection (3) (b) a consent authority shall take no account of the effect of the activity on any person whose written approval has been obtained in accordance with subsection (2) (b) or subsection (3) (c).

(5) Notwithstanding subsections (1) to (3), a consent authority may require any such application to be notified in accordance with section 93, even if a plan expressly provides that such an application need not be so notified.
95. **Time limit for notification**—Where an application for a resource consent is required to be notified, notice shall be given within 10 working days—

(a) Of receipt by the consent authority of the application; or

(b) Where further information is sought under section 92, of receipt of that information.

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**Submissions on Applications**

96. **Making of submissions**—(1) Any person may make a submission to a consent authority about an application for a resource consent that is notified in accordance with section 93.

(2) Every submission shall be in writing, shall be served on the consent authority, and shall state—

(a) The reasons for making the submission and the decision that the person wishes the consent authority to make, if known by the person making the submission, and the general nature of any conditions sought; and

(b) Whether or not the person making the submission wishes to be heard in respect of the submission; and

(c) Any other matter prescribed in regulations made under this Act.

(3) A submission may state whether it is in support of, or in opposition to, the application.

(4) A person who makes a submission shall serve a copy of it on the applicant as soon as reasonably practicable after serving the submission on the consent authority.

97. **Time limit for submissions**—The closing date for serving submissions on a consent authority shall be the 20th working day after public notification or such later date as is notified under section 37.

98. **Advice of submissions to applicant**—As soon as reasonably practicable after the closing date for submissions, the consent authority shall provide the applicant with a list of all submissions received by it.

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**Pre-hearing Meetings**

99. **Pre-hearing meetings**—(1) For the purpose of clarifying, mediating, or facilitating resolution of any matter or issue, a consent authority may, upon request or of its own motion, invite anyone who has made an application for a resource consent or a submission on an application to meet with each other or such other persons as the authority thinks fit.
(2) A member, delegate, or officer of the consent authority who attends a meeting under subsection (1) and who is empowered to make the decision on the application which is the subject of the meeting, shall not be disqualified from participating in the meeting if—
(a) The parties attending the meeting so agree; and
(b) The consent authority is satisfied that the person should not be so disqualified.

(3) The outcome of the meeting may be reported to the consent authority, and that report—
(a) Shall be circulated to all parties before the hearing; and
(b) Shall be part of the information which the consent authority shall have regard to in its consideration of the application.

Hearings

100. Obligation to hold a hearing—A hearing need not be held in accordance with this Act in respect of an application for a resource consent (whether or not it is required to be notified in accordance with section 93) unless—
(a) The consent authority considers that a hearing is necessary; or
(b) Either the applicant or a person who made a submission in respect of that application has requested to be heard and has not subsequently advised that he or she does not wish to be heard.

101. Hearing date and notice—(1) If a hearing of an application for a resource consent is to be held, the consent authority shall fix a commencement date and time, and the place, of the hearing:
(2) The date for the commencement of any hearing shall not be more than 25 working days (or such later date as is notified under section 37) from the closing date for submissions on the application.
(3) The consent authority shall give at least 10 working days' notice of the commencement date and time, and the place, of a hearing of an application for a resource consent to—
(a) The applicant; and
(b) Every person who made a submission on the application stating his or her wish to be heard and who has not subsequently advised that he or she does not wish to be heard.
(4) Where a joint hearing is to be held under section 102 the consent authorities concerned shall ensure that every applicant
and every person who made a submission is aware of the joint hearing and that a joint decision will be made.

**102. Joint hearings by 2 or more consent authorities**—

(1) Where applications for resource consents in relation to the same proposal have been made to 2 or more consent authorities, and those consent authorities have decided to hear the applications, the consent authorities shall jointly hear and consider those applications unless—

(a) All the consent authorities agree that the applications are sufficiently unrelated that a joint hearing is unnecessary; and

(b) The applicant agrees that a joint hearing need not be held.

(2) When a joint hearing is to be held, the regional council for the area concerned shall be responsible for notifying the hearing, setting the procedure, and providing administrative services, unless the consent authorities involved in the hearing agree that another authority should be so responsible.

(3) Where 2 or more consent authorities jointly hear applications for resource consents, they shall jointly decide those applications unless—

(a) Any application is for a restricted coastal activity; or

(b) Any of the consent authorities consider on reasonable grounds that it is not appropriate to do so.

(4) Where 2 or more consent authorities jointly decide applications for a resource consent in accordance with subsection (3), they shall identify in their decision on those applications—

(a) Their respective responsibilities for the administration of any consents granted, including monitoring and enforcement; and

(b) The manner in which administrative charges will be allocated between the consent authorities,— and any consent shall be issued by the relevant consent authority accordingly.

(5) In any appeal under section 120 against a joint decision under subsection (4), the respondent shall be the consent authority whose consent is the subject of the appeal.

**103. Combined hearings in respect of 2 or more applications**—Where 2 or more applications for resource consents in relation to the same proposal have been made to a consent authority, and that consent authority has decided to
hear the applications, the consent authority shall hear and decide those applications together unless—

(a) The consent authority is of the opinion that the applications are sufficiently unrelated so that it is unnecessary to hear and decide the applications together; and

(b) The applicant agrees that a combined hearing need not be held.

Decisions

104. Matters to be considered—(1) Subject to subsection (2), when considering an application for a resource consent, the consent authority shall have regard to any actual and potential effects of allowing the activity.

(2) When considering an application for a resource consent, where—

(a) In accordance with section 94 (1) (c) (ii) or section 94 (2) (b) or section 94 (3) (c), the written approval of any person has been obtained; and

(b) That person has not made a submission under section 96 indicating that such approval is withdrawn—the consent authority shall not take account of any actual or potential effect of the activity on that person; and the fact that any such effect may occur shall not be relevant grounds upon which the consent authority may decline to grant the application.

(3) When considering an application for a resource consent a consent authority shall not take into account the effects of trade competition on trade competitors.

(4) Without limiting subsection (1), when considering an application for a resource consent, the consent authority shall have regard to—

(a) Any relevant rules of a plan or proposed plan; and

(b) Any relevant policies or objectives of a plan or proposed plan; and

(c) Any national policy statement, New Zealand coastal policy statement, and regional policy statement; and

(d) Where the application is made—

(i) In accordance with a regional plan, any relevant district plan; and

(ii) In accordance with any district plan, any relevant regional plan; and

(e) Any relevant water conservation order; and

(f) Any relevant draft water conservation order included in the report of a special tribunal under section 208 or
the report of the Planning Tribunal under section 213; and
(g) Part II; and
(h) Any relevant regulations.
(5) When considering an application for a resource consent for something that would otherwise contravene section 13, and the bed of the river or lake adjoins any area held by the Crown under the Conservation Act 1987 or any other Act specified in the First Schedule to that Act for other than administrative purposes, the consent authority shall also have regard to any relevant management strategy or plan prepared under those Acts for that adjacent area.
(6) The consent authority shall have regard to any information provided under subsections (4) to (7) of section 88 and section 92 in considering the effects of allowing the activity to be undertaken.
(7) Where an application is for a discharge permit or a coastal permit to do something that would otherwise contravene section 15 (relating to discharge of contaminants), the consent authority shall, in having regard to the actual and potential effects of allowing the activity, have regard to—
(a) The nature of the discharge and the sensitivity of the proposed receiving environment to adverse effects and the applicant’s reasons for making the proposed choice; and
(b) Any possible alternative methods of discharge, including discharge into any other receiving environment.
(8) Without limiting subsections (1), (4), (6), and (7), when considering an application for a coastal permit, a consent authority shall have regard to—
(a) Any relevant policy stated in a New Zealand coastal policy statement in respect of the Crown’s interests in land of the Crown in the coastal marine area; and
(b) Any relevant provisions included in the appropriate regional coastal plan to implement that policy.

105. Decisions on applications—(1) Subject to subsections (2) and (3), after considering an application for a resource consent for—
(a) A controlled activity, a consent authority shall grant the consent and may, in accordance with—
(i) Section 108; or
(ii) In the case of a subdivision consent, section 108 or section 220—
include any conditions in the consent:
(b) Any other kind of activity (other than a restricted coastal activity), a consent authority may grant or refuse its consent and may, in accordance with—
   (i) Section 108; or
   (ii) In the case of a subdivision consent, section 108 or section 220—include any conditions in the consent.

(2) A consent authority shall not grant a resource consent—
(a) Contrary to the provisions of section 106 or section 107 or section 217 or of any Order in Council in force under section 152 or of any regulations; or
(b) For a non-complying activity unless, having considered the matters set out in section 104, it is satisfied that—
   (i) Any effect on the environment (other than any effect to which subsection (2) of that section applies) will be minor; or
   (ii) Granting the consent will not be contrary to the objectives and policies of the plan or proposed plan; or
(c) For a prohibited activity; or
(d) For any activity described as a prohibited activity by a rule in a proposed plan once the time for making or lodging submissions or appeals against the proposed rule has expired and—
   (i) No such submissions or appeals have been made or lodged; or
   (ii) All such submissions and appeals have been withdrawn or dismissed.

(3) For the avoidance of doubt, when granting a resource consent for a controlled activity under subsection (1)(a), the matters described in section 104 shall be relevant only in determining the conditions, if any, to be included in the consent.

(4) After considering an application for a resource consent, a consent authority may grant the consent on the basis that the activity is a controlled or discretionary or non-complying activity, whether or not—
(a) The application was expressed to be for an activity of that kind; or
(b) That activity was a controlled or discretionary or non-complying activity, as the case may be, on the date the application was made.

(5) The consent authority shall not grant a consent if the application was made without notice and the application should have been made with notice.
(6) If, at any time after an application for a resource consent is publicly notified but before the consent is granted, a consent authority finds that the application, or any aspect of the application, falls more properly within the jurisdiction of another consent authority, the application or part shall be transferred to the appropriate authority and may, if all parties agree, be continued as if the correct procedures had been followed at all times.

106. Subdivision consent not to be granted in certain circumstances—(1) A consent authority shall not grant a subdivision consent if it considers that either—

(a) Any land in respect of which a consent is sought, or any structure on that land, is or is likely to be subject to material damage by erosion, subsidence, slippage, or inundation from any source; or

(b) Any subsequent use that is likely to be made of the land is likely to accelerate, worsen, or result in material damage to that land, other land, or structure, by erosion, subsidence, slippage, or inundation from any source—

unless the consent authority is satisfied that sufficient provision has been made or will be made in accordance with subsection (2).

(2) A consent authority may grant a subdivision consent if it is satisfied that the effects described in subsection (1) will be avoided, remedied, or mitigated by one or more of the following:

(a) Rules in the district plan:

(b) Conditions of a resource consent, either generally or pursuant to section 220 (1) (d):

(c) Other matters, including works.

107. Restriction on grant of certain discharge permits—(1) Except as provided in subsection (2), a consent authority shall not grant a discharge permit allowing—

(a) The discharge of a contaminant or water into water; or

(b) A discharge of a contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water;—

if, after reasonable mixing, the contaminant or water discharged (either by itself or in combination with the same,
similar, or other contaminants or water), is likely to give rise to all or any of the following effects in the receiving waters:

(c) The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:

(d) Any conspicuous change in the colour or visual clarity:

(e) Any emission of objectionable odour:

(f) The rendering of fresh water unsuitable for consumption by farm animals:

(g) Any significant adverse effects on aquatic life.

(2) A consent authority may grant a discharge permit that may allow any of the effects described in subsection (1) if it is satisfied—

(a) That exceptional circumstances justify the granting of the permit; or

(b) That the discharge is of a temporary nature—and that it is consistent with the purpose of this Act to do so.

(3) Without limiting section 113, where, in accordance with subsection (2), a consent authority grants a discharge permit which allows any of the effects described in subsection (1), the authority shall include in its decision its reasons for doing so.

108. Conditions of resource consents—(1) Except as provided in subsection (3), a resource consent may include any one or more of the following conditions:

(a) A condition requiring that a financial contribution (within the meaning of subsection (9)) be made for purposes specified in the plan:

(b) A condition requiring that a bond be given in respect of the performance of any one or more conditions of the consent, including any condition relating to the removal of structures on the expiry of the consent:

(c) In respect of any resource consent (other than a subdivision consent), a condition requiring that a covenant be entered into which is capable of registration under the Land Transfer Act 1952, in respect of the performance of any condition of the resource consent (being a condition which relates to the use of land to which the consent relates):

(d) A condition requiring that an administrative charge be paid to the consent authority for any specified matter in accordance with section 36 or any regulations:

(e) Subject to subsection (8), in respect of a discharge permit or a coastal permit to do something that would otherwise contravene section 15 (relating to the discharge of contaminants), a condition requiring the
holder to adopt the best practicable option to prevent or minimise any actual or likely adverse effect on the environment of the discharge and other discharges (if any) made by the person from the same site or source:

(f) In respect of a subdivision consent, any condition described in section 220.

(2) Except as expressly provided in subsection (1), the matters set out in paragraphs (a) to (f) of that subsection do not limit the conditions upon which a resource consent may be granted, and, subject to subsection (3) and any regulations, a resource consent may be granted on any other condition that the consent authority considers appropriate.

(3) Where an application for a resource consent relates to a controlled activity, conditions shall only be included in the consent in accordance with criteria specified in the plan.

(4) Subject to subsection (3), a resource consent for a controlled activity may include conditions for the control of any minor adverse effect on the environment.

(5) Without limiting subsection (4) but subject to subsection (3)—

(a) A land use consent for a controlled activity that is a use of land to which section 9 applies and a coastal permit for a controlled activity may include conditions relating to—

(i) The design and external appearance of buildings and other structures:

(ii) Landscape design and site layout:

(iii) The location and design of vehicular and pedestrian access to and from the site:

(iv) Carparking:

(b) A coastal permit for a controlled activity may include conditions relating to any matter described in section 122 (5) or section 122 (6) (which relate to occupation of the coastal marine area and the removal of sand, shingle, and other natural material from that area):

(c) A subdivision consent that is a controlled activity may include conditions relating to any matter described in subsection (1) or subsection (2).

(6) Any condition under subsection (1) (b) may, among other things,—

(a) Require that the bond be given before the consent may be exercised or at any other time:
(b) Require that section 109 (1) apply to the bond except in the case of a land use consent or a subdivision consent:

(c) Provide that the holder of the resource consent remains liable under this Act for any breach of conditions of the consent which occur before the expiry of the consent and for any adverse effects on the environment which become apparent during or after the expiry of the consent:

(d) Require the holder of the resource consent to provide such security as the consent authority thinks fit for the performance of any condition of the bond:

(e) Without limiting paragraph (d), require the holder of the resource consent to provide a guarantor (acceptable to the consent authority) to bind itself to pay for the carrying out and completion of any condition in the event of any default of the holder or any occurrence of any adverse environmental effect requiring remedy:

(f) Provide that the bond may be varied or cancelled or renewed at any time by agreement between the holder and the consent authority.

(7) Any condition under subsection (1) (c) may, among other things, provide that the covenant may be varied or cancelled or renewed at any time by agreement between the consent holder and the consent authority.

(8) Before deciding to grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 (relating to the discharge of contaminants) subject to a condition described in subsection (1) (e), the consent authority shall be satisfied that, in the particular circumstances and having regard to—

(a) The nature of the discharge and the receiving environment; and

(b) Other alternatives, including any condition requiring the observance of minimum standards of quality of the receiving environment—the inclusion of that condition is the most efficient and effective means of preventing or minimising any actual or likely adverse effect on the environment.

(9) In this section, “financial contribution” means a contribution of—

(a) Cash; or

(b) Land (including an esplanade reserve within the meaning of section 229); or
(c) Works, including, among other things, the planting or replanting of any tree or other vegetation or the restoration or enhancement of any natural or physical resource; or

(d) Services—or any combination thereof, made for purposes specified in the plan (including the purpose of ensuring positive effects on the environment to offset any adverse effect) and which does not exceed in value the maximum amount specified in, or determined in accordance with, the plan.

109. Special provisions in respect of bonds or covenants—(1) Every bond given under section 108 (1) (b) in respect of a land use consent or subdivision consent, and any other bond to which this subsection is applied as a condition of the consent, and every covenant given under section 108 (1) (c),—

(a) Shall be deemed to be an instrument creating an interest in the land within the meaning of section 62 of the Land Transfer Act 1952, and may be registered accordingly; and

(b) When registered under the Land Transfer Act 1952, shall be a covenant running with the land and shall, notwithstanding anything to the contrary in section 105 of the Land Transfer Act 1952, bind all subsequent owners of the land.

(2) Where any such bond or covenant has been registered under the Land Transfer Act 1952 and that bond or covenant is varied, cancelled, or expires, the District Land Registrar shall make an appropriate entry in the register and on any relevant instrument of title noting that the bond or covenant has been varied or cancelled or has expired, and the bond or covenant shall take effect as so varied or cease to have any effect, as the case may be.

(3) Where any bond has been given in respect of the completion of any work, or for the purposes of ascertaining whether the work has been completed to the satisfaction of the consent authority, the consent authority may from time to time, under section 708A (a) of the Local Government Act 1974, enter on the land where the work is required to be, or is being, or has been, carried out.

(4) Where the holder fails, within the period prescribed by the resource consent (or within such further period as the consent authority may allow), to complete, to the satisfaction of
the consent authority, any work in respect of which any bond is given—

(a) The consent authority may enter on the land and complete the work and recover the cost thereof from the holder out of any money or securities deposited with the consent authority or money paid by a guarantor, so far as the money or securities will extend; and

(b) On completion of the work to the satisfaction of the consent authority, any money or securities remaining in the hands of the consent authority after payment of the cost of the works shall be returned to the holder or the guarantor, as the case may be.

(5) Where the cost of any work done by the consent authority under subsection (4) exceeds the amount recovered by the consent authority under that subsection, the amount of that excess shall be a debt due to the consent authority by the holder, and shall thereupon be a charge on the land.

(6) The provisions of Part XII shall continue to apply notwithstanding the entry into or subsequent variation or cancellation of any such bond or covenant.

110. Refund of money and return of land where activity does not proceed—(1) Subject to subsection (2), where—

(a) A resource consent includes a condition under section 108 (1) (a) or section 220 (1) (a); and

(b) That resource consent lapses under section 125 or is cancelled under section 126 or is surrendered under section 138; and

(c) The activity in respect of which the resource consent was granted does not proceed,—

the consent authority shall refund or return to the consent holder, or his or her personal representative, any financial contribution paid or land set aside under section 108 (1) (a) or section 220 (1) (a).

(2) A consent authority may retain any portion of a financial contribution or land referred to in subsection (1) of a value equivalent to the costs incurred by the consent authority in relation to the activity and its discontinuance.

111. Use of financial contributions—Where a consent authority has received a cash contribution under section 108 (1) (a) or section 220 (1) (a), the authority shall deal with that money in accordance with the requirements of section
223f of the Local Government Act 1974 and in reasonable accordance with the purposes for which the money was received.

112. Obligation to pay rent and royalties deemed condition of consent—(1) In every coastal permit authorising the holder to—

(a) Occupy, within the meaning of section 12 (4), any land of the Crown in the coastal marine area; or

(b) Remove any sand, shingle, or other natural material, within the meaning of section 12 (4), from any such land—

there shall be implied a condition that the holder shall at all times throughout the period of the permit pay to the relevant regional council, on behalf of the Crown,—

(c) Where the permit was permitted to be granted by virtue of an authorisation granted under section 161, the rent and royalties (if any) specified in the authorisation held by the permit holder; and

(d) Any sum of money required to be paid by any regulation made under section 360 (1) (c).

(2) In every water permit granted to do something that would otherwise contravene section 14 (1) (c) (relating to the taking or use of geothermal energy) there shall be implied a condition that the holder shall at all times throughout the period of the permit pay to the relevant regional council, on behalf of the Crown, any sum of money required to be paid by any regulation made under section 360 (1) (c).

113. Decisions on applications to be in writing, etc.—Every decision on an application for a resource consent shall be in writing and state—

(a) The reasons for the decision; and

(b) In a case where a resource consent is granted for a shorter duration than specified in the application, the reasons for deciding on the shorter duration.

114. Notification of decisions—(1) A consent authority shall ensure that a copy of a decision made by it on an application for a resource consent is served on the applicant and on every person who made a submission.

(2) A consent authority shall ensure that notice of a decision made by it on an application for a resource consent is served on such persons or authorities as it considers appropriate.
(3) A consent authority may, if it considers it appropriate to do so, give notice of a decision in accordance with section 93 (1) (a) to (i).

(4) A notice of a decision on an application for a resource consent shall state a summary of the decision and where the full text of the decision is available for public inspection.

115. Time limits for notification of decision—(1) Notice of a decision on an application for a resource consent shall be given in accordance with section 114—

(a) Where a hearing is held, no later than 15 working days after the conclusion of the hearing; or

(b) Where no hearing is held—

(i) For non-notified applications, no later than 20 working days after the date of receipt of the application or the approval of all affected persons, if any, has been obtained under section 94 (whichever is the later); and

(ii) For applications that are notified under section 93 but for which no submission is received and no hearing requested, no later than 20 working days after the closing date for submissions.

(2) A consent authority may extend any time limit prescribed in subsection (1) under section 37.

116. When a resource consent commences—(1) Except as provided in subsections (2) and (3), every resource consent that has been granted commences—

(a) When the time for lodging appeals against the grant of the consent expires and no appeals have been lodged; or

(b) When the Planning Tribunal determines the appeals or all appellants withdraw their appeals—unless the resource consent or a determination of the Planning Tribunal states otherwise.

(2) A resource consent to which section 89 (2) applies shall not commence—

(a) In the case of a subdivision consent, until the date the land to which the consent relates is vested in the consent holder under section 355 (3); and

(b) In every other case, until the proposed location of the activity has been reclaimed and a certificate has been issued under section 245 (5) in respect of the reclamation.
(3) A coastal permit granted by the Minister of Conservation under section 119 shall commence in accordance with section 119 (4).

Restricted Coastal Activities

117. Application to carry out a restricted coastal activity—(1) Where any person applies for a coastal permit to carry out any activity which a regional coastal plan describes as a restricted coastal activity—
   (a) The application shall be made to the regional council which shall forward a copy of it without delay to the Minister of Conservation; and
   (b) The application shall be heard by a committee of the regional council that is—
      (i) Set up under Part VA of the Local Government Act 1974 and that also contains one person appointed by the Minister of Conservation (either for all such cases or in a particular case); and
      (ii) Serviced by the regional council.
(2) A committee that hears an application for a coastal permit for a restricted coastal activity—
   (a) May exercise any of the powers or rights of a consent authority under sections 37, 39, 40, 41, and 42 (which relate to waivers and hearing powers); and
   (b) Shall make a recommendation on the application to the Minister of Conservation after exercising any of the powers, duties, rights, and discretions set out in sections 91 to 108 (except section 94, which allows a consent authority to decide not to notify an application)—
      as if every reference in those sections to a consent authority was a reference to the committee, and every reference to a decision was a reference to a recommendation.

118. Recommendation of hearing committee—(1) Every recommendation of a committee under section 117 shall be in writing and state the reasons for the recommendation.
(2) A committee under section 117 shall ensure that a copy of its recommendation is served on the Minister of Conservation, the applicant, and every person who made a submission.
(3) A committee under section 117 shall ensure that notice of a recommendation made by it is served on—
   (a) Every person who was served with the application under section 93 (other than the persons referred to in subsection (2)); and
(b) Such other persons or authorities as the committee considers are likely to be interested in the recommendation.

(4) A notice of a recommendation under subsection (3) shall state a summary of the recommendation and where the full text of the recommendation is available for public inspection.

(5) A notice of recommendation under section 117 shall be given—

(a) Where a hearing is held, not later than 15 working days after the conclusion of the hearing; or

(b) Where no hearing is held, not later than 15 working days after the closing date for submissions or after all submissions are withdrawn.

(6) Sections 120 and 121 (relating to appeals) apply with all necessary modifications in respect of notification of a recommendation under section 117 and any inquiry by the Planning Tribunal on that recommendation, as if every reference to—

(a) A decision, were a reference to a recommendation; and

(b) An appeal, were a reference to an inquiry.

119. Decision on application for restricted coastal activity—(1) Within 20 working days of receiving—

(a) A recommendation on an application for a coastal permit for a restricted coastal activity; or

(b) Where an inquiry by the Planning Tribunal into that recommendation has been made, the report of the Planning Tribunal,—

the Minister of Conservation shall make a decision on the application.

(2) When considering his or her decision on the application, the Minister shall—

(a) Take into account the recommendation of the hearing committee or report of the Planning Tribunal, as the case may be; and

(b) Have regard to the matters set out in section 104—

and, subject to subsection (3), may grant or refuse to grant the coastal permit and, in granting the permit, may include any conditions in it in accordance with section 108.

(3) The Minister shall not grant a coastal permit—

(a) Contrary to the provisions of section 106 or section 107 or section 217 or of any Order in Council in force under section 152 or of any regulations; or
(b) For a non-complying activity unless, having considered the matters set out in section 104, he or she is satisfied that—

(i) Any effect on the environment (other than any effect to which subsection (2) of that section applies) will be minor; or

(ii) Granting the consent will not be contrary to the objectives and policies of the regional coastal plan or proposed regional coastal plan; or

(c) For a prohibited activity; or

(d) For any activity described as a prohibited activity by a rule in a proposed regional coastal plan once the time for making or lodging submissions or appeals against the proposed rule has expired and—

(i) No such submissions or appeals have been made or lodged; or

(ii) All such submissions and appeals have been withdrawn or dismissed.

(4) Where the Minister decides to grant a coastal permit for a restricted coastal activity, the permit shall come into effect on the date of the decision or such later date as the Minister states in his or her decision.

Appeals

120. Right to appeal—Any one or more of the following persons may appeal to the Planning Tribunal in accordance with section 121 against the whole or any part of a decision of a consent authority on an application for a resource consent, or an application for a change of consent conditions, or on a review of consent conditions:

(a) The applicant or consent holder;

(b) Any person who made a submission on the application or review of consent conditions.

121. Procedure for appeal—(1) Notice of an appeal under section 120 shall be in the prescribed form and shall—

(a) State the reasons for the appeal and the relief sought; and

(b) State any matters required by regulations; and

(c) Be lodged with the Planning Tribunal and served on the consent authority whose decision is appealed within 15 working days of notice of the decision being received in accordance with this Act.

(2) The appellant shall ensure that a copy of the notice of appeal is served on every person referred to in section 120
(other than the appellant) within 5 working days of the notice being lodged with the Planning Tribunal.

**Nature of Resource Consent**

122. **Consents not real or personal property**—(1) A resource consent is neither real nor personal property.

(2) Except as expressly provided otherwise in the conditions of a consent,—

(a) On the death of the holder of a consent, the consent vests in the personal representative of the holder as if the consent were personal property, and he or she may deal with the consent to the same extent as the holder would have been able to do; and

(b) On the bankruptcy of an individual who is the holder of a consent, the consent vests in the Official Assignee as if it were personal property, and he or she may deal with the consent to the same extent as the holder would have been able to do; and

(c) A consent shall be treated as property for the purposes of the Protection of Personal and Property Rights Act 1988.

(3) The holder of a resource consent may grant a charge over that consent as if it were personal property, but the consent may only be transferred to the chargee, or by or on behalf of the chargee, to the same extent as it could be so transferred by the holder.

(4) Subject to the provisions of this Act, and in particular to subsection (3), the Chattels Transfer Act 1924 and Part IV of the Companies Act 1955 shall apply in relation to a resource consent as if—

(a) The resource consent were a chattel within the meaning of the Chattels Transfer Act 1924; and

(b) The resource consent were situated in the Provincial District in which the activity permitted by the consent may be carried out (or, where it may be carried out in more than one Provincial District, in any such Provincial Districts).

(5) Except to the extent—

(a) That the coastal permit expressly provides otherwise; and

(b) That is reasonably necessary to achieve the purpose of the coastal permit,—

no coastal permit shall be regarded as—

(c) An authority for the holder to occupy a coastal marine area which is land of the Crown or land vested in a
regional council to the exclusion of all or any class of persons; or

(d) Conferring on the holder the same rights in relation to the use and occupation of the area against those persons as if he or she were a tenant or licensee of the land.

(6) Except to the extent—

(a) That the consent expressly provides otherwise; and

(b) That is reasonably necessary to achieve the purpose of the consent,—

no coastal permit shall be regarded as an authority for the holder to remove sand, shingle, or other natural material as if it were a licence or profit à prendre.

**Duration of Consent**

123. **Duration of consent**—Except as provided in section 125,—

(a) The period for which a coastal permit for a reclamation, or a land use consent in respect of a reclamation that would otherwise contravene section 13, is granted is unlimited, unless otherwise specified in the consent:

(b) Subject to paragraph (c), the period for which any other land use consent, or a subdivision consent, is granted is unlimited, unless otherwise specified in the consent:

(c) The period for which any other coastal permit, or any other land use consent to do something that would otherwise contravene section 13, is granted is such period, not exceeding 35 years, as is specified in the consent and if no such period is specified, is 5 years from the date of commencement of the consent under section 116:

(d) The period for which any other resource consent is granted is the period (not exceeding 35 years from the date of granting) specified in the consent and, if no such period is specified, is 5 years from the date of commencement of the consent under section 116.

124. **Exercise of resource consent while applying for new resource consent**—Where the holder of a resource consent that is due to expire—

(a) Applies to the appropriate consent authority for a new resource consent for the same activity no later than 6 months before the expiry of the original resource consent, the holder may continue to operate under the original resource consent until the application for
the new resource consent and any appeals have been determined; or

(b) Applies to the appropriate consent authority for a new resource consent for the same activity in the period beginning 6 months before and ending 3 months before the expiry of the original resource consent, the holder may (if the consent authority in its discretion so allows) continue to operate under the original resource consent until the application for the new resource consent and any appeals are determined.

125. Lapsing of consent—Subject to sections 357 and 358, a resource consent lapses on the expiry of 2 years after the date of commencement of the consent, or after the expiry of such shorter or longer period as is expressly provided for in the consent, unless—

(a) The consent is given effect to before the end of that period; or

(b) Upon an application made up to 3 months after the expiry of that period (or such longer period as the consent authority may fix in accordance with section 37), the consent authority fixes a longer period upon being satisfied that—

(i) Substantial progress or effort has been made towards giving effect to the consent and is continuing to be made; and

(ii) The applicant has obtained approval from every person who may be adversely affected by the granting of the extension, unless in the authority’s opinion it is unreasonable in all the circumstances to require the obtaining of every such approval; and

(iii) The effect of the extension on the policies and objectives of any plan is minor.

126. Cancellation of consent—Subject to sections 357 and 358, where a resource consent has been exercised, but is not exercised for a continuous period of 2 years, a consent authority may cancel the consent by written notice served on the consent holder unless—

(a) The consent expressly provides otherwise; or

(b) Upon an application made up to 3 months after the expiry of the period (or such longer period as the authority may fix in accordance with section 37), the consent authority fixes a longer period upon being satisfied that—
(i) The applicant has obtained approval from every person who, in the opinion of the authority, may be adversely affected by the suspension of the cancellation, unless in the authority's opinion it is unreasonable in all the circumstances to require the obtaining of every such approval; and
(ii) The effect of the suspension on the policies and objectives of any plan is minor.

127. Change or cancellation of consent condition on application by consent holder—(1) The holder of a resource consent may apply to the consent authority for the change or cancellation of any condition of that consent (other than any condition as to the duration of the consent)—
(a) At any time specified for that purpose in the consent; or
(b) Whether or not the consent allows the holder to do so, at any time on the grounds that a change in circumstances has caused the condition to become inappropriate or unnecessary.

(2) This section does not apply to a subdivision consent in respect of which a survey plan has been deposited by the District Land Registrar or Registrar of Deeds in accordance with Part X.

(3) Sections 88 to 121 shall apply, with all necessary modifications, to any application under subsection (1) as if the application were for a resource consent, except that section 93 (notification of applications) shall not apply if the consent authority is satisfied—
(a) That either—
(i) The adverse effect (other than any effect on any person whose written approval has been obtained in accordance with paragraph (b)) of the activity after any change or cancellation of the condition will continue to be minor; or
(ii) The degree of adverse effect (other than any effect on any person whose written approval has been obtained in accordance with paragraph (b)) of the activity is likely to be unchanged or decreased as a result of any such change or cancellation; and
(b) That written approval has been obtained from—
(i) Every person who made a submission or lodged an appeal on the original application; and
(ii) Every person who, in the opinion of the authority, may be adversely affected by the granting of the change or cancellation,—
unless in the authority's opinion it is unreasonable in all the circumstances to obtain every such approval.

(4) The exception in subsection (3) applies whether or not—
(a) Notification is required by a plan or proposed plan; or
(b) The application relates to a resource consent in respect of a permitted, controlled, discretionary, or non-complying activity.

Review of Consent Conditions by Consent Authority

128. Circumstances when consent conditions can be reviewed—A consent authority may, in accordance with section 129, serve notice on a consent holder of its intention to review the conditions of a resource consent—

(a) At any time specified for that purpose in the consent for any of the following purposes:
   (i) To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
   (ii) To require a discharge permit holder to adopt the best practicable option to remove or reduce any adverse effect on the environment; or
   (iii) For any other purpose specified in the consent; or

(b) In the case of a water, coastal, or discharge permit, when a regional plan has been made operative which sets rules relating to maximum or minimum levels or flows or minimum standards of water quality or air quality or ranges of temperature or pressure of geothermal water, and in the regional council's opinion it is appropriate to review the conditions of the permit in order to enable the levels, flows, or standards set by the rule to be met; or

(c) If the information made available to the consent authority by the applicant for the consent for the purposes of the application contained inaccuracies which materially influenced the decision made on the application and the effects of the exercise of the consent are such that it is necessary to apply more appropriate conditions.

129. Notice of review—(1) A notice under section 128—
(a) Shall advise the consent holder of the conditions of the consent which are the subject of the review; and
(b) Shall state the reasons for the review; and
(c) Shall specify the information which the consent authority took into account in making its decision to review the consent, unless the notice is given under section 128 (a); and

(d) May propose, and invite the consent holder to propose within 20 working days of service of the notice, new consent conditions.

(2) Subject to section 130 (3), the service of a notice under section 128 and a summary of its contents shall be publicly notified in accordance with section 93—

(a) Where the consent holder is invited to propose new consent conditions, within 30 working days of the service of the notice; or

(b) Where no such invitation is made, within 10 working days of the service of the notice.

130. Public notification, submissions, and hearing, etc.—(1) Sections 96 to 102 shall, with all necessary modifications, apply in respect of a review of any resource consent (other than a coastal permit granted in respect of a restricted coastal activity) as if—

(a) The notice of review under section 129 were an application for a resource consent; and

(b) The consent holder were the applicant for the resource consent.

(2) Where the Minister of Conservation reviews a consent granted in respect of a restricted coastal activity, the hearing shall be conducted by a hearing committee set up under section 117, and sections 96 to 102 and section 118 (which relate to hearings, the decision of a hearing committee, and rights of inquiry) shall apply with all necessary modifications to its recommendation to the Minister as if—

(a) A hearing committee were a consent authority; and

(b) A recommendation were a decision; and

(c) A notice of review were an application for a resource consent; and

(d) The consent holder were the applicant for a resource consent.

(3) Nothing in subsection (1) or (2) requires a review of a resource consent to be notified in accordance with section 93 if the consent authority is satisfied—

(a) That either—

(i) The adverse effect (other than any effect on any person whose written approval has been obtained in
accordance with paragraph (b) of the activity after
the review will continue to be minor; or
(ii) The degree of adverse effect (other than any
effect on any person whose written approval has been
obtained in accordance with paragraph (b)) of the
activity is likely to be unchanged or decreased as a
result of the review; and
(b) That written approval has been obtained from—
(i) Every person who made a submission or lodged
an appeal on the original application; and
(ii) Every person who, in the opinion of the
authority, may be adversely affected as a result of the
review,—
unless in the authority’s opinion it is unreasonable in
all the circumstances to obtain every such approval.
(4) Subsection (3) applies whether or not—
(a) Notification is required by a plan or proposed plan; or
(b) The review relates to a resource consent in respect of a
permitted, controlled, discretionary, or non-
complying activity.

181. Matters to be considered in review—(1) When
reviewing the conditions of a resource consent, the consent
authority or hearing committee set up under section 117 in
respect of a permit for a restricted coastal activity—
(a) Shall have regard to the matters in section 104 and to
whether the activity allowed by the consent will
continue to be viable after the change; and
(b) May have regard to the manner in which the consent has
been used.
(2) Before changing the conditions of a discharge permit or a
coastal permit to do something that would otherwise
contravene section 15 (relating to the discharge of
contaminants) to include a condition requiring the holder to
adopt the best practicable option to remove or reduce any
adverse effect on the environment, the consent authority shall
be satisfied, in the particular circumstances and having regard
to—
(a) The nature of the discharge and the receiving
environment; and
(b) The financial implications for the applicant of including
that condition; and
(c) Other alternatives, including a condition requiring the
observance of minimum standards of quality of the
receiving environment—
that including that condition is the most efficient and effective means of removing or reducing that adverse effect.

132. Decisions on review of consent conditions—(1) A consent authority may change the conditions of a resource consent (other than any condition as to the duration of the consent) on a review under paragraphs (b) or (c) of section 128 if, and only if, one or more of the circumstances specified in those paragraphs applies.

(2) Sections 106 to 116 (which relate to conditions, decisions, and notification) and sections 120 and 121 (which relate to appeals) apply, with all necessary modifications, to a review under section 128 (other than a review initiated by the Minister of Conservation) as if—

(a) The review were an application for a resource consent; and

(b) The consent holder were an applicant for a resource consent.

(3) Sections 118 and 119 apply, with all necessary modifications, to a review of consent conditions initiated by the Minister of Conservation as if—

(a) A hearing committee were a consent authority; and

(b) A recommendation were a decision; and

(c) A notice of review were an application for a resource consent; and

(d) The consent holder were the applicant for a resource consent.

133. Powers under Part XII not affected—Nothing in sections 127 to 132 limits the power of the Planning Tribunal to change or cancel a resource consent by an enforcement order under Part XII.

Transfer of Consents

134. Land use and subdivision consents attach to land—(1) Except as provided in subsection (2), a land use consent and a subdivision consent shall attach to the land to which each relates and accordingly may be enjoyed by the owners and occupiers of the land for the time being, unless the consent expressly provides otherwise.

(2) Subsection (1) does not apply to any land use consent to do something that would otherwise contravene section 13.

(3) The holder of a land use consent described in subsection (2) may transfer the whole or any part of the holder’s interest in
the consent to any other person unless the consent expressly provides otherwise.

(4) The transfer of the holder’s interest in a consent described in subsection (2) has no effect until written notice of the transfer is given to the consent authority that granted the consent.

185. Transferability of coastal permits—(1) A holder of a coastal permit may transfer the whole or any part of the holder’s interest in the permit to any other person unless the consent expressly provides otherwise.

(2) The transfer of the holder’s interest in a coastal permit under subsection (1) has no effect until written notice of the transfer is given to the consent authority that granted the permit.

186. Transferability of water permits—(1) A holder of a water permit granted for damming or diverting water may transfer the whole of the holder’s interest in the permit to any owner or occupier of the site in respect of which the permit is granted, but may not transfer the permit to any other person or from site to site.

(2) A holder of a water permit granted other than for damming or diverting water may transfer the whole or any part of the holder’s interest in the permit—

(a) To any owner or occupier of the site in respect of which the permit is granted; or

(b) To another person on another site, or to another site, if both sites are in the same catchment (either upstream or downstream), aquifer, or geothermal field, and the transfer—

(i) Is expressly allowed by a regional plan; or

(ii) Has been approved by the consent authority that granted the permit on an application under subsection (4).

(3) A transfer under any of subsections (1), (2) (a), and (2) (b) (i) shall have no effect until written notice of the transfer is received by the consent authority that granted the permit.

(4) An application under subsection (2) (b) (ii)—

(a) Shall be in the prescribed form and be lodged jointly by the holder of the water permit and the person to whom the interest in the water permit will transfer; and

(b) Shall be considered in accordance with sections 88 to 115, 120, and 121 as if—
(i) The application for a transfer were an application for a resource consent; and
(ii) The consent holder were an applicant for a resource consent,—
except that, and in addition to the matters set out in section 104, the consent authority shall have regard
to the effects of the proposed transfer, including the
effect of ceasing or changing the exercise of the
permit under its current conditions, and the effects of
allowing the transfer.

(5) Where the transfer of the whole or part of the holder’s
interest in a water permit is notified under subsection (3), or
approved under subsection (2) (b) (ii), the original permit, or
that part of the permit transferred, shall be deemed to be
cancelled and the interest or part transferred shall be deemed
to be a new permit—

(a) On the same conditions as the original permit (where
subsection (3) applies); or
(b) On such conditions as the consent authority determines
under subsection (4) (where that subsection applies).

187. Transferability of discharge permits—(1) The
holder’s interest in a discharge permit may not be
transferred—

(a) To any person other than an owner or occupier of the site
in respect of which the permit is granted; or
(b) From site to site.

(2) The holder’s interest in a discharge permit may be
transferred by the holder to any owner or occupier of the site
in respect of which the permit is granted, unless the permit
expressly provides otherwise.

(3) The transfer of the holder’s interest in a discharge permit
under subsection (2) has no effect until written notice of the
transfer is given to the consent authority that granted the
permit.

188. Surrender of consent—(1) The holder of a resource
consent may surrender the consent, either in whole or part, by
giving written notice to the consent authority.

(2) A consent authority may refuse to accept the surrender of
part of a resource consent where it considers that surrender of
that part would—

(a) Affect the integrity of the consent; or
(b) Affect the ability of the consent holder to meet other
conditions of the consent; or
(c) Lead to an adverse effect on the environment.

(3) A person who surrenders a resource consent remains liable under this Act—
   (a) For any breach of conditions of the consent which occurred before the surrender of the consent; and
   (b) To complete any work to give effect to the consent unless the consent authority directs otherwise in its notice of acceptance of the surrender under subsection (4).

(4) A surrender of a resource consent takes effect on receipt by the holder of a notice of acceptance of the surrender from the consent authority.

Certificate of Compliance

139. Territorial authority to grant certificate of compliance—(1) Where a district plan describes any land use or subdivision as a permitted activity in respect of any particular land, the territorial authority shall, upon request and payment of the appropriate administrative charge, grant to any person who so requests, a certificate that a particular proposal complies with the plan in relation to that land.

(2) A consent authority may require an applicant for a certificate of compliance to provide further information relating to the request if, in the opinion of the consent authority, the information is necessary to determine whether the particular proposal complies with the plan.

(3) No certificate of compliance may be granted where a proposed plan has been notified which affects the activity in relation to that land.

(4) A certificate of compliance shall describe the particular proposal and the land concerned and be issued within 20 working days of the receipt of the request by the territorial authority.

(5) A certificate of compliance shall state that the particular proposal was permitted on the date of receipt of the request by the territorial authority.

(6) A certificate of compliance shall be deemed to be either a land use consent or a subdivision consent, whichever is appropriate, granted subject to any conditions specified in the plan, and the provisions of this Act shall apply accordingly, except that, with the exceptions of sections 120, 121, 122, 125, and 134, this Part does not apply.

Minister's Call-In Powers

140. Minister's power to call in applications of national significance—(1) Where the Minister considers that
a proposal is of national significance, the Minister may (whether or not an application for any resource consent has been made in respect of that proposal) direct that he or she will decide any particular application, or all applications, for resource consents in respect of that proposal in accordance with section 141.

(2) In considering whether a proposal is of national significance, the Minister may have regard to any relevant factor including whether the proposal—

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

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

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

(d) Affects or is likely to affect more than one region; or

(e) Affects or is likely to affect or is relevant to New Zealand’s international obligations to the global environment; or

(f) Involves or is likely to involve technology, processes, or methods which are new to New Zealand and which may affect the environment; or

(g) Results or is likely to result in or contribute to significant or irreversible changes to the environment (including the global environment); or

(h) Is or is likely to be significant in terms of section 8 (Treaty of Waitangi).

141. Form and effect of Minister’s direction—(1) A direction by the Minister under section 140 is not effective in respect of a proposal unless it—

(a) Is made in writing signed by the Minister; and

(b) States the reasons for the direction; and

(c) Is served on the consent authority to which an application for a resource consent relating to the proposal is made or likely to be made—

(i) No later than 5 working days before the date fixed for the commencement of the hearing of the application; or

(ii) Where no hearing is to be held, before the consent authority notifies its decision on the application in accordance with section 114; or
(iii) Where no application for a resource consent has yet been made, as soon as practicable after the direction is made.

(2) Where a direction has been made and served in accordance with subsection (1) any application for a resource consent to which the direction relates shall be decided by the Minister.

142. Deferral by Minister pending application for additional consents—(1) Where a direction has been made and served in accordance with section 141 (1), the Minister may, in accordance with section 91, determine not to proceed with the notification or hearing of the application for a resource consent.

(2) Where the Minister makes such a determination, he or she shall forthwith notify the consent authority and the applicant of the determination.

143. Consent authority’s obligations—Where a direction has been made and served on a consent authority in accordance with section 141, the consent authority shall, without delay,—

(a) Provide the Minister with all applications for resource consents to which the direction relates and all information and submissions received by the consent authority that relate to each such application; and

(b) Serve a copy of the direction on every person who made an application for a resource consent or who is promoting the proposal; and

(c) Give notice of the direction to—

   (i) Each owner and occupier (other than an applicant) of any land to which an application relates; and

   (ii) Each owner or occupier of any land adjoining any land to which an application relates; and

   (iii) Every person who has made a submission in respect of any application to which the direction relates.

144. Notification of direction by Minister—(1) The Minister shall give public notice of a direction under section 141.

(2) Every notice for the purposes of this section shall state—

(a) The reasons for the direction; and
(b) A description of the applications for resource consents to which the direction applies, and where such applications and accompanying information and any further information may be viewed; and

(c) That submissions on those applications may be made in writing by any person to the Minister, and the closing date for the receipt of those submissions; and

(d) The address for service of the Minister and each applicant.

145. Submissions to Minister—(1) Any person may make a submission to the Minister about any application for a resource consent to which a direction under section 141 relates, whether or not the person has made a submission to a consent authority in respect of the application.

(2) Subsections (2), (3), and (4) of section 96, and section 98 shall, with all necessary modifications, apply in respect of every submission made under subsection (1) as if every reference to a consent authority were a reference to the Minister.

(3) Every submission about an application for a resource consent made to a consent authority shall be deemed to have been made to the Minister.

(4) The closing date for serving submissions on the Minister is 20 working days after notification of the direction under section 144, or such longer period as is fixed in accordance with section 37, as if all references in that section to a consent authority were a reference to the Minister.

146. Board of inquiry—(1) As soon as reasonably practicable after receiving any application for a resource consent from a consent authority under section 143, the Minister shall appoint a board of inquiry to consider that application.

(2) A board of inquiry shall—

(a) Comprise no fewer than 3, and no more than 5, members who, in the Minister’s opinion (after consultation with the relevant local authority), fairly represent any national, regional, territorial, and iwi interests in the application concerned; and

(b) Have a chairperson appointed either by the Minister or, if the Minister declines to do so, by the members.

(3) Every board of inquiry is a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951 and there may, if the Minister so directs, be paid to any member of
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a board of inquiry, out of money appropriated by Parliament for the purpose,—
(a) Remuneration by way of fees, salary, or allowances in accordance with that Act; and
(b) Travelling allowances and travelling expenses in accordance with that Act in respect of time spent travelling in the service of such board—and the provisions of that Act apply accordingly.

147. Conduct of inquiry—(1) The Minister shall, without delay, provide a board of inquiry with all applications, submissions, and other information that is received by the Minister and is relevant to the inquiry.
(2) A board of inquiry may require further information under section 92 in respect of any application for a resource consent to which a direction under section 141 relates as if the board were a consent authority.
(3) Sections 101 and 104 (which relate to hearing dates and notification and matters to be considered) apply, with all necessary modifications, in respect of an inquiry as if—
(a) A board of inquiry were a consent authority; and
(b) The conduct of an inquiry were the hearing of an application; and
(c) The closing date for submissions on the called-in application, set in accordance with section 145 (4), were the closing date for submissions on an application for a resource consent.
(4) Without limiting sections 101 and 104 (as applied by subsection (3)),—
(a) Every inquiry shall be held in public at a place near to the area to which the resource consent applied for relates; and
(b) The matters to which a board of inquiry shall have regard include all relevant matters under section 140 and the Minister’s reasons for giving the direction under section 141.

148. Board to report to Minister—(1) On completion of an inquiry under section 147, the board shall, as soon as practicable, submit to the Minister a written report (including recommendations and reasons) on the application for a resource consent referred to it by the Minister.
(2) A report by a board of inquiry—
(a) Shall state the principal issues and findings of fact; and
(b) Shall state how the board considers the Minister should decide the application; and
(c) May recommend the issue, change, or repeal of a national policy statement or a New Zealand coastal policy statement; and
(d) May recommend changes to any plan or regional policy statement.

(3) After receiving a report from a board of inquiry, the Minister shall ensure that—
(a) A copy of the report is sent to every applicant for a resource consent to which the report relates; and
(b) A copy of the report is sent to the relevant local authorities; and
(c) A copy of the report is sent to every person who made a submission; and
(d) The report is published; and
(e) Public notice is given of where and how copies of the report can be obtained.

149. Minister to decide and notify application—
(1) When considering his or her decision on the application, the Minister shall have regard to—
(a) The report and recommendations of the board of inquiry; and
(b) The matters in section 104.

(2) Within 20 working days of receiving a report of a board of inquiry, the Minister shall make a decision on the application for a resource consent and notify the decision.

(3) Sections 37, 105 to 114, 120, and 121 (relating to extension of time limits, conditions, notification, and appeals) apply, with all necessary modifications, in respect of a decision under subsection (1) as if every reference in those sections to a consent authority were a reference to the Minister.

150. Residual powers of consent authority—The consent authority that, but for the direction under section 141, would have decided an application for a resource consent decided by the Minister—
(a) Shall have the powers under sections 127 to 132 (relating to the change of consent conditions) in regard to that resource consent; but
   (i) Shall not exercise any of those powers without obtaining the prior written consent of the Minister to do so; and
(ii) Shall comply with any conditions imposed by the Minister in regard to the exercise of those powers; and
(b) Shall have all other functions, duties, and powers in respect of the consent as if it had itself granted the consent.

PART VII
COASTAL TENDERING

151. Interpretation—In this Part, unless the context otherwise requires,—
"Authorisation" means an authorisation granted by the Minister of Conservation pursuant to section 161:
"Minister" means the Minister of Conservation:
"Order in Council" means an Order in Council made under section 152:
"Public notice" means—
(a) A notice published in one or more daily newspapers circulating in the main metropolitan areas; and
(b) A notice published in—
(i) One or more daily newspapers circulating in the region to which any Order in Council relates; or
(ii) One or more other newspapers that have at least an equivalent circulation in that region to the daily newspapers circulating in that region—
together with such other public notice (if any) as the person giving it thinks desirable in the circumstances.

152. Order in Council may be made requiring holding of authorisation—(1) The Governor-General may, by Order in Council, on the advice of the Minister, in respect of any specified part of the coastal marine area, direct that a consent authority shall not grant a coastal permit in respect of any land of the Crown in that specified part which would authorise the holder of the permit (if granted) to—
(a) Occupy, within the meaning of section 12 (4), any such land for any period exceeding 6 months; or
(b) Remove any sand, shingle, or other natural material, within the meaning of section 12 (4), from any such land; or
(c) Reclaim or drain any of such land that is foreshore or seabed—
unless the applicant for the coastal permit is the holder of an authorisation authorising such occupation, taking, removal, reclamation, or drainage.

(2) Every Order in Council made under subsection (1) may, by Order in Council made on the advice of the Minister, be amended or revoked.

(3) The Minister shall not advise the making of an Order in Council under subsection (1) or subsection (2) which relates to any activity described in subsection (1)(a) or (c) in the coastal marine area of any region until a proposed regional coastal plan has been both prepared and notified under this Act in respect of that region.

(4) The Minister shall not advise the making of an Order in Council under subsection (1) or subsection (2) unless the Minister considers—

(a) That there is, or is likely to be, in respect of any area to which it is proposed that the Order in Council relate, competing demands for the use of that area for all or any of the activities referred to in subsection (1); and

(b) That it is appropriate to do so after having regard to the Crown's interests in land of the Crown in the coastal marine area.

(5) Every Order in Council made under subsection (1), and every Order in Council made under subsection (2) amending a previous Order in Council, shall expire on the second anniversary of the date on which—

(a) In the case of an Order in Council made under subsection (1), it came into force:

(b) In the case of an Order in Council made under subsection (2), the original Order in Council amended came into force.

158. Application of Order in Council—An Order in Council shall not apply to or affect—

(a) Any application for a coastal permit made before the date on which the Order in Council came into force:

(b) Any application, whether made before or after the date on which the Order in Council came into force, for a coastal permit to do something—

(i) That otherwise would contravene section 14 or section 15;

(ii) That would otherwise contravene section 12 (other than something described in section 152 (1) (a) to (c));
(c) Any application to which any of sections 389, 390, 393, 395, and 397 apply:
(d) The operation of section 124 (relating to the exercise of resource consents while applying for a new resource consent):
(e) Any of the following in force or being carried out on the date on which the Order in Council came into force:
   (i) Any coastal permit:
   (ii) Any lease, licence, permit, Order in Council, or approval described in section 425 or section 426:
   (iii) Any permitted activity in the coastal marine area:
   (iv) Any other lawful activity.

154. Publication, etc., of Order in Council—The Minister shall as soon as practicable—
   (a) Cause a copy of every Order in Council to be served on the appropriate regional council; and
   (b) Cause a notice of the making of the Order in Council and its effect to be served on—
      (i) The Minister for the Environment:
      (ii) The appropriate regional manager for the Ministry for the Environment:
      (iii) Every territorial authority whose district or any part of whose district is situated within the region to which the Order in Council relates:
      (iv) The tangata whenua of that region, through iwi authorities and tribal runanga; and
   (c) Cause public notice to be given of the making of the Order in Council and its effect.

155. Particulars of Order in Council to be endorsed on regional coastal plan—On receipt of a copy of an Order in Council under section 154, the regional council shall endorse particulars of it on the regional coastal plan or proposed regional coastal plan, but such endorsement shall not form part of the plan.

156. Effect of Order in Council—Except as otherwise provided in section 153, where an Order in Council is in force in respect of any part of the coastal marine area, a consent authority shall not grant a coastal permit to do any of the following in respect of any land of the Crown in that part:
   (a) Occupy, within the meaning of section 12 (4), any such land for any period exceeding 6 months; or
(b) Remove any sand, shingle, or other natural material, within the meaning of section 12 (4), from any such land; or

(c) Reclaim or drain any of such land that is foreshore or seabed—unless the applicant for that permit is the holder of an authorisation authorising such occupation, taking, removal, reclamation, or drainage, or unless that Order in Council does not require that any such authorisation be held.

157. Calling of public tenders for authorisations—

(1) Where an Order in Council is in force in respect of any part of the coastal marine area, the Minister may, from time to time and at any time, by public tender of which public notice has been given, offer authorisations for the whole or any portion of that part in respect of all or any activities to which the Order in Council applies.

(2) The public notice of every such offer shall—

(a)Specify the range of activities to which the authorisation, once issued, will apply; and

(b) Describe the area of land to which the authorisation, once issued, will apply, including the size, shape, and location of that area; and

(c) Specify the closing date for tenders, which may be any date the Minister considers appropriate; and

(d) Specify the manner in which tenders must be submitted.

(3) Every such public notice may also specify—

(a) In the case of activities involving occupation, the maximum period of occupation (not exceeding 35 years);

(b) In the case of extraction, the maximum tonnage and period (not exceeding 35 years) of extraction;

(c) Whether or not it is intended that the area will be retendered when the coastal permit to which it relates expires.

(4) The Minister may amend, revoke, or replace any such notice before the time by which tenders must be received expires.

158. Requirements of tender—(1) Every tender for an authorisation shall—

(a) Specify the activity or range of activities in respect of which the authorisation is sought; and
(b) In respect of an activity to which section 152 (1) (a) applies, the maximum period of any proposed coastal permit; and
(c) In respect of an activity to which section 152 (1) (b) applies, the maximum period of any proposed coastal permit, and the maximum amount of material proposed to be extracted under the permit; and
(d) Specify the total remuneration offered, including—
   (i) Any initial payment for the authorisation:
   (ii) Any rental payments for occupation of the area concerned, and any proposed formula for adjustment of rental payments:
   (iii) Any royalty for the extraction of material, and any proposed formula for adjustment of royalty.

(2) Every such tender shall be accompanied by—
(a) The prescribed fee (if any) and, if an initial payment for the authorisation is offered, a cash deposit of that payment or equivalent security to the satisfaction of the Minister; and
(b) Any additional information specified in the public notice calling for tenders.

159. Acceptance of tender, etc.—(1) After having regard to—
(a) The interests (including the financial interests) of the Crown in the coastal marine area; and
(b) The financial and other circumstances of the tenderers; and
(c) Any other matters the Minister considers relevant—
   the Minister may in the Minister’s discretion—
   (d) Accept any tender, whether or not it is the highest tender; or
   (e) Enter into private negotiations with any tenderer, whether or not that tenderer offered the highest tender, with a view to reaching an agreement; or
   (f) Reject all tenders and call for new tenders under section 157.

(2) On making a decision to accept a tender or to reject all tenders, the Minister shall forthwith give written notification of the decision and the reasons for it to the appropriate regional council and every tenderer.

(3) When giving notification under subsection (2) of the decision to accept a tender, the Minister shall include in the notification details of the name of the successful tenderer and the nature of the activity to which the tender relates.
(4) If the Minister reaches an agreement with a tenderer pursuant to subsection (1)(e), the Minister shall forthwith give written notification to the appropriate regional council and every other tenderer of the name of the person with whom agreement was reached and the nature of the activity to which the agreement relates.

160. Notice of acceptance of tender—(1) Every tender accepted in accordance with section 159 shall be by written notice of acceptance given by the Minister to the successful tenderer.

(2) At the same time as giving any written notice of acceptance under subsection (1), the Minister shall also give written notice to every other tenderer of the failure of their tender and, on request, shall return all documents submitted with each unsuccessful tender.

161. Grant of authorisation—(1) Where the Minister gives notice of acceptance of a tender under section 160 or enters into an agreement satisfactory to the Minister under section 159 (1) (e), the Minister shall grant a written authorisation, in such form as he or she thinks appropriate, to the successful tenderer or the person with whom the agreement was entered into, as the case may be.

(2) The Minister shall cause a copy of every such authorisation to be given to the appropriate regional council.

162. Authorisation not to confer right to coastal permit, etc.—(1) The granting of an authorisation under section 161 shall not confer any right to the grant of a coastal permit in respect of the area to which the authorisation relates.

(2) If a coastal permit is granted to the holder of an authorisation in respect of an area to which the authorisation relates, that permit—

(a) In the case of an activity to which section 152 (1) (a) or (b) applies, shall not be granted for a period greater than the period specified in the authorisation; and

(b) In the case of an activity to which section 152 (1) (b) applies, shall not authorise the removal of any material at a rate, or of a total quantity, greater than that specified in the authorisation; and

(c) Shall be subject to section 112.
168. Authorisation transferable—Every authorisation may be transferred by its holder to any other person, but the transfer shall not take effect until written notice of it has been given to and received by the Minister and the appropriate regional council.

164. Authorisation to lapse in certain circumstances—
(1) Subject to subsection (2), an authorisation shall lapse unless, within 2 years after it was granted, its holder has obtained a coastal permit which includes conditions authorising the holder to undertake the activity and (if relevant) occupy the area in respect of which the authorisation was granted.

(2) Where—
(a) Before the second anniversary of the date an authorisation is granted, its holder has applied for a coastal permit in respect of the activity to which the authorisation relates; and
(b) On that second anniversary date—
(i) No decision has been made by the consent authority on that application; or
(ii) The consent authority has made a decision, but the time for lodging appeals to the Planning Tribunal has not expired, or an appeal has been lodged but no decision has been made by the Tribunal on that appeal—
the authorisation shall not lapse until the time for lodging an appeal in respect of the decision has expired, or the decision of the Tribunal in respect of any appeal has been given.

165. Tender money—(1) Where a person to whom an authorisation has been granted forwarded an initial payment to the Minister pursuant to section 158 (2), the money shall be the property of the Crown, and, on granting the authorisation, the Minister shall cause that money to be paid into the Crown Bank Account in accordance with the Public Finance Act 1989.

(2) Where an authorisation granted to a person to whom subsection (1) applies has lapsed pursuant to section 164, the Minister shall cause 80 percent of the initial payment to be refunded to that person from the Crown Bank Account.

(3) Where any tenderer who has failed to obtain an authorisation forwarded an initial payment to the Minister pursuant to section 158 (2), the Minister shall as soon as practicable cause that money to be refunded to that tenderer.
PART VIII
DESIGNATIONS AND HERITAGE ORDERS

Designations

166. Meaning of "designation", "network utility operator", and "requiring authority"—In this Act—

"Designation" means a provision made in a district plan to give effect to a requirement made by a requiring authority under section 168 or clause 4 of the First Schedule:

"Network utility operator" means a person who—

(a) Undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, or geothermal energy; or

(b) Is a network operator as defined by the Telecommunications Act 1987 for the purpose of telecommunications or radio communications as defined by that Act; or

(c) Is an electricity operator or electrical supply authority as defined by the Electricity Act 1968 for the purpose of an electric line as defined by that Act; or

(d) Undertakes or proposes to undertake the distribution of water for supply (including irrigation); or

(e) Undertakes or proposes to undertake a drainage or sewerage system; or

(f) Constructs, operates, or proposes to construct or operate, a road or railway line; or

(g) Is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or

(h) Is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or

(i) Undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act,—

and the words "network utility operation" have a corresponding meaning:

"Requiring authority" means—

(a) A Minister of the Crown; or

(b) A local authority; or
A network utility operator approved as a requiring authority under section 167.

167. Application to become requiring authority—(1) A network utility operator may apply to the Minister in the prescribed form for approval as a requiring authority for a particular project or work.

(2) The Minister may make such inquiry into the application and request such information from the applicant as he or she considers necessary.

(3) The Governor-General may, by Order in Council made on the recommendation of the Minister and published in the Gazette, approve an applicant under subsection (1) as a requiring authority for the purposes of that project or work and on such terms and conditions as are specified in the Order in Council.

(4) The Minister may not make a recommendation under subsection (3) unless he or she is satisfied that—

(a) The project or work is necessary for the purposes of the network utility operation carried on by the applicant; and

(b) The project or work is in the public interest; and

(c) The applicant is likely to satisfactorily carry out all the responsibilities of a requiring authority under this Act and will give proper regard to the interests of those affected and to the environment.

(5) Where the Minister is satisfied that a requiring authority is unlikely to undertake or complete a project or work for which approval as a requiring authority was given, or is unlikely to satisfactorily carry out any responsibility as a requiring authority under this Act, the Minister shall make a recommendation under subsection (6) that the approval be revoked.

(6) The Governor-General may, by Order in Council made on the recommendation of the Minister and published in the Gazette, revoke an approval given under subsection (3).

(7) Upon the revocation of an approval under subsection (6), all functions, powers, and duties of the former requiring authority under this Act in relation to any designation, or any requirement for a designation, shall be deemed to be transferred to the Minister under section 180.

168. Notice of requirement to territorial authority—

(1) A Minister of the Crown who, or a local authority which, has financial responsibility for a public work, may at any time give
notice to a territorial authority of its requirement for a designation—
(a) For a public work; or
(b) In respect of any land, water, subsoil, or airspace where a restriction is necessary for the safe or efficient functioning or operation of a public work.

(2) A requiring authority approved under section 167 may at any time give notice to a territorial authority of its requirement for a designation—
(a) For a project or work described in an Order in Council made under section 167; or
(b) In respect of any land, water, subsoil, or airspace where a restriction is reasonably necessary for the safe or efficient functioning or operation of such a project or work.

(3) A notice under subsection (1) or subsection (2) shall be in the prescribed form and shall include—
(a) The reasons why the designation is needed; and
(b) A description of the site in respect of which the requirement applies and the nature of the proposed public work, project or work, and any proposed restrictions; and
(c) The effects that the public work or project or work will have on the environment, and the ways in which any adverse effects may be mitigated, and the extent to which alternative sites, routes, and methods have been considered; and
(d) Any information required to be included in the notice by a plan or regulations; and
(e) A statement of the consultation, if any, that the requiring authority has had with persons likely to be affected by the designation, public work, or project or work; and
(f) A statement specifying all other resource consents that the requiring authority may need to obtain in respect of the activity to which the requirement relates, and whether or not the requiring authority has applied for such consents.

(4) A requiring authority may at any time withdraw a requirement by giving notice in writing to the territorial authority affected.

(5) Upon receipt of notification under subsection (4), the territorial authority shall—
(a) Publicly notify the withdrawal; and
(b) Notify all persons upon whom the requirement has been served.

169. Further information, public notification, submissions, and hearing—Subject to section 170, sections 92, 93, and 95 to 103 apply, with all necessary modifications, in respect of a requirement notified under section 168, as if every reference in those sections—

(a) To a resource consent were a reference to the requirement; and

(b) To an applicant were a reference to the requiring authority; and

(c) To an application for a resource consent were a reference to the notice of the requirement under section 168; and

(d) To a consent authority were a reference to the territorial authority; and

(e) To a decision on an application for a resource consent were a reference to a recommendation by the territorial authority under section 171.

170. Discretion to include requirement in proposed plan—If a territorial authority is given notice of a requirement under section 168, and proposes to publicly notify a proposed plan under clause 5 of the First Schedule within 40 working days of receipt of that requirement, the territorial authority may, with the consent of the requiring authority, include the requirement in its proposed plan instead of complying with section 169.

171. Recommendation by territorial authority—
(1) When considering a requirement made under section 168, a territorial authority shall have regard to the matters set out in the notice given under section 168 (together with any further information supplied under section 169), and all submissions, and shall also have particular regard to—

(a) Whether the designation is reasonably necessary for achieving the objectives of the public work or project or work for which the designation is sought; and

(b) Whether adequate consideration has been given to alternative sites, routes, or methods of achieving the public work or project or work; and

(c) Whether the nature of the public work or project or work means that it would be unreasonable to expect the
requiring authority to use an alternative site, route, or method; and
(d) All relevant provisions of national policy statements, New Zealand coastal policy statements, regional policy statements, regional plans, and district plans; and
(e) Part II.
(2) After considering a requirement made under section 168, the territorial authority shall recommend to the requiring authority that the requiring authority either—
(a) Confirm the requirement, and any conditions as to duration, with or without modification and subject to such conditions as the territorial authority considers appropriate (including any conditions relating to the operation or design of the public work, or project or work, where full details are not available at the time of considering the requirement); or
(b) Withdraw the requirement.
(3) The territorial authority shall give reasons for a recommendation made under subsection (2).

172. Decision of requiring authority—(1) Within 30 working days of the day on which it receives a territorial authority's recommendation under section 171, a requiring authority shall advise the territorial authority whether the requiring authority accepts or rejects the recommendation in whole or in part.
(2) A requiring authority may modify a requirement if, and only if, that modification is recommended by the territorial authority or is not inconsistent with the requirement as notified.
(3) Where a requiring authority rejects the recommendation in whole or in part, or modifies the requirement, the authority shall give reasons for its decision.

178. Notification of decision—(1) A territorial authority shall ensure that—
(a) A copy of a decision made by a requiring authority under section 172 is served on every person who made a submission; and
(b) Notice of the decision is given to such local authorities, iwi authorities, and other persons or authorities as the territorial authority considers are likely to be interested in the decision; and
(c) Notification is completed within 15 working days of the decision of the requiring authority.
(2) A notice of decision shall state a summary of the decision and where the full text is available for public inspection.

174. Appeals—(1) Any one or more of the following persons may appeal to the Planning Tribunal in accordance with this section against the whole or any part of a decision of a requiring authority under section 172:
   (a) The territorial authority concerned:
   (b) Any person who made a submission on the requirement.
(2) Notice of an appeal under this section shall—
   (a) State the reasons for the appeal and the relief sought; and
   (b) State any matters required to be stated by regulations; and
   (c) Be lodged with the Planning Tribunal and be served on the requiring authority whose decision is appealed against, within 15 working days of the date on which notice of the decision is given in accordance with section 173.
(3) The appellant shall ensure that a copy of the notice of appeal is served on every person referred to in subsection (1) (other than the appellant), within 5 working days after the notice is lodged with the Tribunal.
(4) In determining an appeal, the Planning Tribunal shall have regard to the matters set out in section 171 and may—
   (a) Confirm or cancel a requirement; or
   (b) Modify a requirement in such manner, or impose such conditions, as the Tribunal thinks fit.

175. Designation to be provided for in district plan—
(1) Where—
   (a) No appeal is lodged against a decision of a requiring authority under section 172 within the time permitted by that section; or
   (b) An appeal is lodged but is withdrawn or dismissed; or
   (c) An appeal is lodged and the Planning Tribunal confirms or modifies the requirement—
the territorial authority shall, as soon as reasonably practicable and without further formality,—
   (d) Include the designation in its district plan as if it were a rule in accordance with the requirement as issued or modified in accordance with this Act; and
   (e) State in its district plan the name of the requiring authority which has the benefit of the designation; and
(f) Advise the regional council of the designation and whether it considers that the designation makes the district plan inconsistent with a regional policy statement or regional plan.

(2) If a designation in a district plan makes the plan inconsistent with a regional policy statement or regional plan, the regional council shall, as soon as reasonably practicable and without further formality, amend its policy statement or plan to—

(a) Remove the inconsistency; and

(b) Make any other changes necessary to give effect to the designation.

(3) The provisions of the First Schedule shall not apply to any designation in a district plan or any change to a regional policy statement or regional plan under this section.

176. Effect of designation—(1) Where a designation is included in a district plan under section 175, then, notwithstanding anything to the contrary in any plan and regardless of any resource consent,—

(a) The requiring authority responsible for the designation may do anything that is in accordance with the designation; and

(b) No person may, without the prior written consent of that requiring authority, do anything in relation to the land that is the subject of the designation including—

(i) Undertaking any use of the land described in section 9 (4); and

(ii) Subdividing the land; and

(iii) Changing the character, intensity, or scale of the use of the land—that would prevent or hinder the public work or project or work to which the designation relates.

(2) The provisions of a plan shall apply in relation to any land that is subject to a designation only to the extent that the land is used for a purpose other than the designated purpose.

(3) This section is subject to section 177.

177. Land subject to existing designation or heritage order—(1) Where a designation is included in a district plan under section 175, and the land that is the subject of the designation is already the subject of an earlier designation or heritage order,—

(a) The requiring authority responsible for the later designation may do anything that is consistent with
that designation only if that authority has first obtained the written consent of the authority responsible for the earlier designation or order; and

(b) The authority responsible for the earlier designation or order may, notwithstanding section 176 (1) (b) and without obtaining the prior written consent of the later requiring authority, do anything that is consistent with the earlier designation or order.

(2) The authority responsible for the earlier designation or order may withhold its consent under subsection (1) only if that authority is satisfied—

(a) That, in the case of an earlier designation, the thing to be done would prevent or hinder the public work or project or work to which the designation relates; or

(b) That in the case of an earlier heritage order, the thing to be done would wholly or partly nullify the effect of the order.

178. Interim effect of requirement—(1) Where, under section 168 or clause 4 of the First Schedule, a requiring authority has given notice of a requirement for a designation for a public work or project or work, then during the period described in subsection (3), regardless of the provisions of any plan or resource consent, no person may, without the prior written consent of the requiring authority, do anything (including the things referred to in subparagraphs (i) to (iii) of section 176 (1) (b)) that would prevent or hinder the public work or project or work.

(2) Subsection (1) does not prevent any authority responsible for an earlier designation or heritage order from doing anything that is consistent with the earlier designation or order.

(3) For the purposes of subsection (1), the period commences on the date on which notice of the requirement is given to the territorial authority under section 168 or clause 4 of the First Schedule and ends on the earliest of the following days:

(a) The day on which the requirement is withdrawn by the requiring authority;

(b) The day on which the requirement is cancelled by the Planning Tribunal;

(c) The day on which the designation is included in the district plan.

(4) No person who contravenes subsection (1) during the period described in subsection (5) commits an offence against this Act unless that person knew, or could reasonably have been expected to have known, at the time of the contravention,
that the requiring authority had given notice of the requirement.

(5) For the purposes of subsection (4), the period commences on the date on which the requiring authority gives notice of the requirement under section 168 or clause 4 of the First Schedule and ends on the day upon which the territorial authority publicly notifies the requirement under that section or the proposed plan under clause 5 of that Schedule.

(6) Subsection (4) applies notwithstanding anything to the contrary in section 338 and section 341 (which deal with offences).

179. Appeals relating to sections 176 to 178—(1) Any person who has been refused consent by a requiring authority under section 176 (1) (b) or section 177 (2) or section 178 (1), or who has been granted such consent subject to conditions, may appeal to the Planning Tribunal against the refusal or the conditions.

(2) Notice of an appeal under this section shall—
(a) State the reasons for the appeal and the relief sought; and
(b) State any matters required to be stated by regulations; and
(c) Be lodged with the Planning Tribunal and served on the requiring authority whose decision is appealed against within 15 working days of receiving the requiring authority's decision under sections 176 (1) (b), 177 (2), or 178 (1).

(3) The Planning Tribunal may—
(a) Grant or refuse the consent; or
(b) Confirm, modify, or revoke any condition of the consent— as the Tribunal thinks fit.

180. Transfer of rights and responsibilities for designation—(1) Where a designation is included in a district plan for—
(a) A public work, then all rights and responsibilities in relation to the designation shall transfer with any transfer of financial responsibility for the public work; or
(b) A project or work of a network utility operator approved as a requiring authority for that project or work under section 167, then all rights and responsibilities in relation to the designation shall be personal to that
network utility operator and may not be transferred except in accordance with subsections (2) to (4).

(2) Where a network utility operator who has been approved as a requiring authority wishes to transfer such approval to another network utility operator, both operators shall jointly apply to the Minister in the prescribed form for such approval to be transferred.

(3) The Minister may make such inquiry into the application, and request such information from any applicant as he or she considers necessary for the purpose of determining whether the transferee is likely to satisfactorily carry out all the responsibilities of a requiring authority under this Act and will give proper regard to the interests of those affected and the environment.

(4) The Governor-General may, by Order in Council made on the recommendation of the Minister, approve a transfer referred to in subsection (2) on such terms and conditions as are specified in the Order in Council, whereupon the transferee shall become the requiring authority for the purposes of the project or work.

(5) For the purposes of section 175 (1) (e), any transfer of a designation shall, without formality, be noted in the district plan.

181. Alteration of designation—(1) A requiring authority that is responsible for a designation may at any time give notice to the territorial authority of its requirement to alter the designation.

(2) Subject to subsection (3), sections 168 to 179 shall, with all necessary modifications, apply to a requirement referred to in subsection (1) as if it were a requirement for a new designation.

(3) A territorial authority may at any time alter a designation in its district plan if—
(a) The alteration—
   (i) Involves no more than a minor change to the effects on the environment associated with the use or proposed use of land or any water concerned; or
   (ii) Involves only minor changes or adjustments to the boundaries of the designation; and
(b) Written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and
(c) Both the territorial authority and the requiring authority agree with the alteration—
and sections 168 to 179 shall not apply to any such change.

182. Removal of designation—(1) If a requiring authority no longer wants a designation, it shall give notice in the prescribed form to—

(a) The territorial authority concerned; and

(b) Every person who is known by the requiring authority to be the owner or occupier of any land to which the designation relates; and

(c) Every other person who, in the opinion of the requiring authority, is likely to be affected by the designation.

(2) As soon as reasonably practicable after receiving a notice under subsection (1), the territorial authority shall—

(a) Without further formality, amend its district plan to remove the designation; and

(b) Advise the regional council of the removal, and whether it considers that the removal of the designation makes the district plan inconsistent with a regional policy statement or regional plan.

(3) If the removal of a designation from a district plan makes the district plan inconsistent with a regional policy statement or regional plan, the regional council shall as soon as reasonably practicable and without further formality, amend its policy statement or plan to remove the inconsistency.

(4) The provisions of the First Schedule shall not apply to the removal of a designation from a district plan or the amendment of a regional policy statement or plan under this section.

(5) Upon notification under subsection (1) of the removal of a designation from a district plan, the designation ceases to have effect and any relevant provisions of that plan apply.

183. Review of designation which has not lapsed—

(1) Within 20 working days of the day on which a territorial authority gives public notice in accordance with clause 4 of the First Schedule, every requiring authority having a designation in the district which has not lapsed, shall give written notice to the territorial authority stating—

(a) Whether it requires the designation to be included as a rule in the proposed plan, with or without modification; and

(b) The nature of any such modification; and

(c) Reasons for such requirements and any such modifications.
(2) If a requiring authority fails to notify the local authority in accordance with subsection (1), no such provision shall be included in the proposed plan.

184. Lapsing of designations which have not been given effect to—(1) A designation lapses on the expiry of 5 years after the date on which it is included in the district plan under section 175 unless—

(a) It is given effect to before the end of that period; or

(b) The territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period for the purposes of this subsection; or

(c) The designation specified a different period when incorporated in the plan.

(2) Where paragraph (b) or paragraph (c) of subsection (1) applies in respect of a designation, the designation shall lapse on the expiry of the period referred to in that paragraph unless—

(a) It is given effect to before the end of that period; or

(b) The territorial authority determines, on an application made within 3 months before the expiry of that period, that substantial progress or effort has been made towards giving effect to the designation and is continuing to be made and fixes a longer period for the purposes of this subsection.

185. Planning Tribunal may order taking of land—

(1) An owner of an estate or interest in land (including a leasehold estate or interest) that is subject to a designation or requirement under this Part may apply at any time to the Planning Tribunal for an order obliging the requiring authority responsible for the designation or requirement to acquire or lease all or part of the owner’s estate or interest in the land under the Public Works Act 1981.

(2) An application under subsection (1) shall be in the prescribed form and a copy of the application shall be served upon the requiring authority and the relevant territorial authority by the applicant.

(3) The Planning Tribunal may make an order applied for under subsection (1) if it is satisfied that—

(a) The owner has tried but been unable to enter into an agreement for the sale of the estate or interest in the
land subject to the designation or requirement at a price not less than the market value that the land would have had if it had not been subject to the designation or requirement; and

(b) Either—

(i) The designation or requirement prevents reasonable use of the owner’s estate or interest in the land; or

(ii) The applicant was the owner, or the spouse of the owner, of the estate or interest in the land when the designation or requirement was created.

(4) Before making an order under subsection (1) the Tribunal may direct the owner to take further action to try to sell the estate or interest in the land.

(5) If the Planning Tribunal makes an order to take an estate or interest in land under the Public Works Act 1981, the owner of that estate or interest shall be deemed to have entered into an agreement with the requiring authority responsible for the designation or requirement for the purposes of section 17 of the Public Works Act 1981.

(6) Where subsection (5) applies in respect of a requiring authority which is a network utility operator approved under section 167—

(a) Any agreement shall be deemed to have been entered into with the Minister of Lands on behalf of the network utility operator as if the land were required for a government work; and

(b) All costs and expenses incurred by the Minister of Lands in respect of the acquisition of the land shall be recoverable from the network utility operator as a debt due to the Crown.

(7) The amount of compensation payable for an estate or interest in land ordered to be taken under this section shall be assessed as if the designation or requirement had not been created.

186. Compulsory acquisition powers—(1) A network utility operator that is a requiring authority in respect of a project or work may apply to the Minister of Lands to have the land required for the project or work acquired or taken under Part II of the Public Works Act 1981 as if the project or work were a Government work within the meaning of that Act; and, if the Minister of Lands agrees, the land may be so acquired or taken.
(2) The effect of any Proclamation taking land for the purposes of subsection (1) shall be to vest the land in the network utility operator instead of the Crown.

(3) Land which is subject to a heritage order shall not be taken without the consent of the heritage protection authority.

(4) Any land held under any enactment or in any other manner by the Crown or a local authority may, with the consent of the Crown or that authority and on such terms and conditions (including price) as may be agreed, be set apart for a project or work of a network utility operator in the manner provided in sections 50 and 52 of the Public Works Act 1981 (with the necessary modifications), but the setting apart shall not be subject to sections 40 and 41 of that Act. Any land so set apart shall vest in the network utility operator.

(5) Any claim for compensation under the Public Works Act 1981 in respect of land acquired or taken in accordance with this section shall be made against the Minister of Lands.

(6) All costs and expenses incurred by the Minister of Lands in respect of the acquisition or taking of land in accordance with this section (including any compensation payable by the Minister) shall be recoverable from the network utility operator as a debt due to the Crown.

(7) Sections 40 and 41 of the Public Works Act 1981 shall apply to land acquired or taken in accordance with this section as if the network utility operator concerned were the Crown.

(8) For the purposes of this section, an interest in land, including a leasehold interest, may be acquired or taken as if references to land were references to an interest in land.

Heritage Orders

187. Meaning of “heritage order” and “heritage protection authority”—In this Act—

“Heritage order” means a provision made in a district plan to give effect to a requirement made by a heritage protection authority under section 189:

“Heritage protection authority” means—

(a) Any Minister of the Crown including—

(i) The Minister of Conservation acting either on his or her own motion or on the recommendation of the New Zealand Conservation Authority, a local conservation board, the New Zealand Fish and Game Council, or a Fish and Game Council; and
(ii) The Minister of Maori Affairs acting either on his or her own motion or on the recommendation of an iwi authority:

(b) A local authority acting either on its own motion or on the recommendation of an iwi authority:

(c) The New Zealand Historic Places Trust in so far as it exercises its functions under the Historic Places Act 1980:

(d) Any other person that is approved as a heritage protection authority under section 188.

188. Application to become a heritage protection authority—(1) Any body corporate having an interest in the protection of any place may apply to the Minister in the prescribed form for approval as a heritage protection authority for the purpose of protecting that place.

(2) For the purpose of this section, and sections 189 and 191, “place” includes any feature or area, and the whole or part of any structure.

(3) The Minister may make such inquiry into the application and request such information from the applicant as he or she considers necessary.

(4) The Governor-General may, by Order in Council made on the recommendation of the Minister and published in the Gazette, approve an applicant as a heritage protection authority for the purpose of protecting the place and on such terms and conditions as are specified in the Order in Council.

(5) The Minister shall not make a recommendation under subsection (4) unless he or she is satisfied that—

(a) The protection of the place that is the subject of the application, and the approval of the applicant for that purpose, is in the public interest; and

(b) The applicant is likely to satisfactorily carry out all the responsibilities of a heritage protection authority under this Act.

(6) Where the Minister is satisfied that a heritage protection authority is unlikely to continue to satisfactorily protect the place for which approval as a heritage protection authority was given, or is unlikely to satisfactorily carry out any responsibility as a heritage protection authority under this Act, the Minister shall make a recommendation under subsection (7) that the approval be revoked.
(7) The Governor-General may, by Order in Council made on the recommendation of the Minister and published in the Gazette, revoke any approval given under subsection (4).

(8) Upon—
(a) The revocation of the approval of a body corporate under subsection (7); or
(b) The dissolution of any body corporate approved as a heritage protection authority under this section,—

all functions, powers, and duties of the body corporate under this Act in relation to any heritage order or requirement for a heritage order shall be deemed to be transferred to the Minister under section 192.

189. Notice of requirement to territorial authority—

(1) A heritage protection authority may give notice to a territorial authority of its requirement for a heritage order for the purpose of protecting—

(a) Any place of special interest, character, intrinsic or amenity value or visual appeal, or of special significance to the tangata whenua for spiritual, cultural, or historical reasons; and
(b) Such area of land (if any) surrounding that place as is reasonably necessary for the purpose of ensuring the protection and reasonable enjoyment of that place.

(2) For the purposes of this section, a place may be of special interest by having special cultural, architectural, historical, scientific, ecological, or other interest.

(3) A notice under subsection (1) shall be in the prescribed form and shall include—

(a) The reason why the heritage order is needed; and
(b) A description of the place and surrounding area to which the requirement applies; and
(c) A specification of any restrictive conditions applying to the place or surrounding area; and
(d) A statement of how the heritage order will affect the lawful use of the place and surrounding area, and the extent to which other uses may be continued without nullifying the effect of the heritage order; and
(e) Any information required to be included in the notice by a plan or regulations; and
(f) Where consultation with any person likely to be affected by the heritage order—
   (i) Has taken place, a statement giving details of such consultation, including any arrangements in
respect of the upkeep of the place and surrounding area; or

(ii) Has not taken place, a statement giving the reasons why such consultation has not taken place.

(4) A heritage protection authority may withdraw a requirement under this section by giving notice in writing to the territorial authority affected.

(5) Upon receipt of notification under subsection (4), the territorial authority shall—

(a) Publicly notify the withdrawal; and

(b) Notify all persons upon whom the requirement has been served.

190. Further information, public notification, submissions, and hearing—Sections 92, 93, and 95 to 103 apply, with all necessary modifications, in respect of a requirement made under section 189 as if every reference in those sections—

(a) To a resource consent were a reference to the requirement; and

(b) To an applicant were a reference to the requiring authority; and

(c) To an application for a resource consent were a reference to the notice of the requirement under section 189; and

(d) To a consent authority were a reference to the territorial authority; and

(e) To a decision on the application for a resource consent were a reference to a recommendation by the territorial authority under section 191.

191. Recommendation by territorial authority—

(1) When considering a requirement made under section 189, a territorial authority shall have regard to the matters set out in the notice given under section 189 (together with any further information supplied under section 190), and all submissions, and shall also have particular regard to—

(a) Whether the place merits protection; and

(b) Whether the requirement is reasonably necessary for protecting the place to which the requirement relates; and

(c) Whether the inclusion in the requirement of any area of land surrounding the place is necessary for the purpose of ensuring the protection and reasonable enjoyment of the place; and
(d) All relevant provisions of any national policy statement, New Zealand coastal policy statement, regional policy statement, regional plan, or district plan; and
(e) Part II and section 189 (1); and
(f) As appropriate, management plans or strategies approved under any other Act which relate to the place.

(2) After considering a requirement made under section 189, the territorial authority may recommend—
(a) That the requirement be confirmed, with or without modifications; or
(b) That the requirement be withdrawn.

(3) In recommending the confirmation of a requirement under subsection (2) (a), the territorial authority may recommend the imposition of—
(a) A condition that the heritage protection authority reimburse the owner of the place for any additional costs of upkeep of the place required as a result of the making of the heritage order:
(b) Such other conditions as the territorial authority considers appropriate.

(4) The territorial authority shall give reasons for a recommendation made under subsection (2).

192. Application of other sections—The following sections shall, with all necessary modifications, apply in respect of a requirement under section 189 as if the heritage protection authority was a requiring authority, the heritage order was a designation, and references to section 171 were references to section 191:
(a) Section 172, which relates to decisions of requiring authorities:
(b) Section 173, which relates to public notification of such decisions:
(c) Section 174, which relates to appeals against such decisions:
(d) Section 175, which relates to the provision of designations in district plans:
(e) Section 180, which relates to the transferability of designations:
(f) Section 181, which relates to the alteration of designations.

198. Effect of heritage order—Where a heritage order is included in a district plan then, regardless of the provisions of any plan or resource consent, no person may, without the prior
written consent of the relevant heritage protection authority named in the plan in respect of the order, do anything including—

(a) Undertaking any use of land described in section 9 (4); and
(b) Subdividing any land; and
(c) Changing the character, intensity, or scale of the use of any land—that would wholly or partly nullify the effect of the heritage order.

194. Interim effect of requirement—(1) Where a heritage protection authority has given notice of a requirement for a heritage order during the period described in subsection (2) then, regardless of the provisions of any plan or resource consent, no person may, without the prior written consent of the heritage protection authority, do anything (including the things referred to in paragraphs (a) to (c) of section 193) that would wholly or partly nullify the effect of the heritage order.

(2) For the purposes of subsection (1), the period commences on the date on which the heritage protection authority gives notice of the requirement under section 189 and ends on the earliest of the following days:

(a) The day on which the requirement is withdrawn by the heritage protection authority:
(b) The day on which the requirement is cancelled by the Planning Tribunal:
(c) The day on which the heritage order is included in the district plan.

(3) No person who contravenes subsection (1) during the period described in subsection (4) commits an offence against this Act unless that person knew, or could reasonably have been expected to have known, at the time of the contravention, that the heritage protection authority had given notice of the requirement.

(4) For the purposes of subsection (3), the period commences on the date on which the heritage protection authority gives notice of the requirement under section 189 or clause 4 of the First Schedule and ends on the day upon which the territorial authority publicly notifies the requirement under that section or the proposed plan under clause 5 of that Schedule.

(5) Subsection (3) applies notwithstanding anything to the contrary in section 338 and section 341 (which deal with offences).
195. Appeals relating to sections 193 and 194—(1) Any person who—

(a) Proposes to do anything in relation to land that is subject to a heritage order or requirement for a purpose which, but for the heritage order or requirement, would be lawful; and

(b) Has been refused consent to undertake that use by a heritage protection authority under section 193 or section 194, or has been granted such consent subject to conditions—

may appeal to the Planning Tribunal against the refusal or the conditions.

(2) Notice of an appeal under this section shall—

(a) State the reasons for the appeal and the relief sought; and

(b) State any matters required to be stated by regulations; and

(c) Be lodged with the Planning Tribunal and served on the heritage protection authority whose decision is appealed against, within 15 working days of receiving the heritage protection authority's decision under section 193 or section 194.

(3) In considering an appeal under this section, the Tribunal shall have regard to—

(a) Whether the decision appealed against has caused or is likely to cause serious hardship to the appellant; and

(b) Whether the decision appealed against would render the land which is subject to the heritage order or requirement incapable of reasonable use; and

(c) The extent to which the decision may be modified without wholly or partly nullifying the effect of the requirement or heritage order—

and may confirm or reverse the decision appealed against or modify the decision in such manner as the Tribunal thinks fit.

196. Removal of heritage order—Section 182 shall apply, with all necessary modifications, in respect of the removal of heritage orders as if—

(a) A heritage protection authority was a requiring authority; and

(b) A heritage order was a designation, except that the removal of a heritage order from a district plan shall not take effect until 10 working days after notice of removal is received by the territorial authority.
197. Compulsory acquisition powers—(1) The acquisition of land by a heritage protection authority for the purposes of giving effect to a heritage order shall be deemed to be an acquisition of land, or an interest in land, for a public work for the purposes of the Public Works Act 1981.

(2) Where a heritage protection authority is neither the Crown nor a local authority, section 186 shall apply, with all necessary modifications, as if every reference to a network utility operator were a reference to a heritage protection authority.

198. Planning Tribunal may order land taken, etc.—
(1) Upon application made to the Planning Tribunal by the owner of an estate or interest in land (including a leasehold estate or interest) that is subject to a heritage order, or requirement under section 189, if the Tribunal is satisfied that—

(a) The applicant was the owner or spouse of the owner on the date when the heritage order was included in the district plan or the requirement was made; and

(b) The applicant has tried but been unable to enter into an agreement for the sale of the estate or interest in the land subject to the heritage order or requirement at a price not less than the market value the land would have had if it were not subject to the heritage order or requirement; and

(c) The heritage order or requirement renders or will render the land in respect of which it applies, incapable of reasonable use,—

the Planning Tribunal may make an order giving the heritage protection authority the option of either withdrawing the requirement or causing the heritage order to be removed, as the case may be, or taking the land under the Public Works Act 1981.

(2) Before making an order under subsection (1), the Tribunal may direct the owner to take further action to try to sell the estate or interest in the land.

(3) If the Tribunal makes an order to take an estate or interest in land under the Public Works Act 1981, the owner of the land shall be deemed to have entered into an agreement with the heritage protection authority responsible for the heritage order or requirement for the purposes of section 17 of the Public Works Act 1981.
(4) Where subsection (3) applies in respect of a heritage protection authority that is neither the Crown nor a local authority—

(a) Any agreement shall be deemed to have been entered into with the Minister of Lands on behalf of the heritage protection authority as if the land were required for a government work; and

(b) All costs and expenses incurred by the Minister of Lands in respect of the acquisition of the land shall be recoverable from the heritage protection authority as a debt due to the Crown.

(5) The amount of compensation payable for an estate or interest in land ordered to be taken under this section shall be assessed as if the heritage order or requirement had not been made.

PART IX

WATER CONSERVATION ORDERS

199. Purpose of water conservation orders—

(1) Notwithstanding anything to the contrary in Part II, the purpose of a water conservation order is to recognise and sustain—

(a) Outstanding amenity or intrinsic values which are afforded by waters in their natural state:

(b) Where waters are no longer in their natural state, the amenity or intrinsic values of those waters which in themselves warrant protection because they are considered outstanding.

(2) A water conservation order may provide for any of the following:

(a) The preservation as far as possible in its natural state of any water body that is considered to be outstanding:

(b) The protection of characteristics which any water body has or contributes to, and which are considered to be outstanding.—

(i) As a habitat for terrestrial or aquatic organisms:

(ii) As a fishery:

(iii) For its wild, scenic, or other natural characteristics:

(iv) For scientific and ecological values:

(v) For recreational, historical, spiritual, or cultural purposes:

(c) The protection of characteristics which any water body has or contributes to, and which are considered to be
of outstanding significance in accordance with tikanga Maori.

200. Meaning of “water conservation order”—In this Act, the term “water conservation order” means an order made under section 214 for any of the purposes set out in section 199 and that imposes restrictions or prohibitions on the exercise of regional councils’ powers under paragraphs (e) and (f) of section 30(1) (as they relate to water) including, in particular, restrictions or prohibitions relating to—

(a) The quantity, quality, rate of flow, or level of the water body; and

(b) The maximum and minimum levels or flow or range of levels or flows, or the rate of change of levels or flows to be sought or permitted for the water body; and

(c) The maximum allocation for abstraction or maximum contaminant loading consistent with the purposes of the order; and

(d) The ranges of temperature and pressure in a water body.

201. Application for water conservation order—(1) Any person may, upon payment of any prescribed fee, apply to the Minister for the making of a water conservation order in respect of any water body.

(2) An application under subsection (1) shall—

(a) Identify the water body concerned; and

(b) State the reasons for the application with reference, where practicable, to the matters set out in sections 199, 200, and 207; and

(c) Describe the provisions which, in the applicant’s opinion, should be included in a water conservation order and the effect that such provisions would have on the water body.

(3) The Minister may by notice in writing require the applicant to supply such further information in respect of the application as the Minister considers necessary.

202. Minister’s obligations upon receipt of application—(1) After receipt of an application (and any further information required by the Minister) under section 201 and after making such inquiry in respect of the application as the Minister considers necessary, the Minister shall as soon as practicable either—

(a) Appoint a special tribunal to hear and report on the application; or
(b) Reject the application—and notify the applicant of his or her decision, and where the application is rejected, of his or her reasons for the rejection.

(2) Before appointing a special tribunal under subsection (1)(a), the Minister shall, where appropriate, consult with the Minister of Maori Affairs and the Minister of Conservation regarding the membership of the tribunal.

208. Special tribunal—(1) A special tribunal appointed under section 202 shall—

(a) Comprise no fewer than 3, and no more than 5, members; and

(b) Have a chairperson appointed either by the Minister or, if the Minister declines to do so, by the members.

(2) Every special tribunal shall be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951 and there may, if the Minister so directs, be paid to any member of a special tribunal, out of money appropriated by Parliament for the purpose,—

(a) Remuneration by way of fees, salary, or allowances in accordance with that Act; and

(b) Travelling allowances and travelling expenses in accordance with that Act in respect of time spent travelling in the service of the tribunal—and the provisions of that Act apply accordingly.

204. Public notification of application—(1) As soon as practicable after its appointment, a special tribunal shall ensure that—

(a) Notice of the application is published in—

(i) A newspaper circulating in the area in which the water body to which the application relates is situated; and

(ii) A daily newspaper in each of the cities of Auckland, Wellington, Christchurch, and Dunedin; and

(b) Such other public notification of the application as the tribunal considers appropriate is given; and

(c) Notice of the application is served on—

(i) The applicant; and

(ii) The relevant regional council; and

(iii) The relevant territorial authorities; and

(iv) The relevant iwi authorities; and

(v) Such persons as the tribunal considers appropriate.
(2) Every notice for the purposes of this section shall be in the prescribed form and shall state—
(a) A description of the application, and where the application and any relevant information held by the special tribunal may be viewed; and
(b) That submissions on the application may be made in writing by any person; and
(c) The effect of section 205 (3); and
(d) That the matters to be considered by the tribunal may be wider than the matters raised in the application; and
(e) The closing date for the receipt by the tribunal of such submissions; and
(f) The address for service of the tribunal and each applicant.

(3) Section 92 shall, with all necessary modifications, apply in respect of a water conservation order as if—
(a) Every reference therein to a consent authority were a reference to the special tribunal; and
(b) Every reference therein to a consent were a reference to the order.

205. **Submissions to special tribunal**—(1) Any person may make submissions to the special tribunal about an application which is notified in accordance with section 204.

(2) Sections 37, 96 (2) and (4), and 98 shall, with all necessary modifications, apply in respect of every submission made under subsection (1) as if—
(a) Every reference therein to a consent authority were a reference to the tribunal; and
(b) Every reference therein to a consent were a reference to an order.

(3) Any person who supports the making of a water conservation order but who would prefer—
(a) That the order instead preserve a different but related water body in the same catchment; or
(b) That different features and qualities of the water body be preserved,—
shall endeavour, in his or her submission,—
(c) To make that preference known to the tribunal; and
(d) To specify the reasons for the preference, referring, where practicable, to the matters set out in sections 199, 200, and 207; and
(e) To describe the provisions which, in the person's opinion, should be included in the water conservation order and the effect that those provisions would have on the water body.
(4) Any submission that does not contain all the matters referred to in subsection (3) may nevertheless be considered by the tribunal.

(5) Any person who makes a submission opposing the making of an order shall specify the reasons why he or she considers the proposed order is not justified in terms of section 199 and section 207.

(6) The special tribunal may, by notice in writing, require any person making a submission to supply such further information in respect of the submission as the special tribunal considers necessary.

(7) The closing date for serving submissions on a special tribunal is the 20th working day after notification of the application under section 204 is complete or such later date as is notified under section 37.

206. Conduct of hearing—(1) The Minister shall, without delay, provide a special tribunal with the application in respect of which it has been appointed and any other relevant information received or held by the Minister.

(2) Every special tribunal shall have, in relation to the exercise of its functions and powers under this Act, the same immunities and privileges as are possessed by a District Court Judge in the exercise of his or her civil jurisdiction.

(3) Sections 39 to 42 and 99 to 101 shall, with all necessary modifications, apply in respect of an application to a special tribunal as if—

(a) Every reference in those sections to a consent authority were a reference to the special tribunal; and

(b) Every reference in those sections to a resource consent were a reference to a water conservation order.

(4) Without limiting sections 39 to 42, and 99, 100, and 101 (1), (2), and (3), every inquiry shall be held in public at a place determined by the special tribunal as being near to the water body to which the application relates.

207. Matters to be considered—In considering an application for a water conservation order, a special tribunal shall have particular regard to the purpose of a water conservation order and the matters set out in section 199 and shall also have regard to—

(a) The application and all submissions; and

(b) The needs of primary and secondary industry, and of the community; and
(c) The relevant provisions of every national policy statement, New Zealand coastal policy statement, regional policy statement, regional plan, and district plan.

208. Special tribunal to report on application—(1) As soon as reasonably practicable, a special tribunal shall prepare a report on the application for a water conservation order and give notice in accordance with subsection (2).

(2) A notice for the purposes of subsection (1) shall—
(a) Either include a draft water conservation order, or state that the tribunal recommends that the application be declined; and
(b) State the reasons for the tribunal’s conclusion; and
(c) Be sent to the applicant, the Minister, the regional council, the relevant territorial authorities, the relevant iwi authorities, and every person who made a submission on the application.

209. Right to make submissions to Planning Tribunal—(1) Any of the following persons may make a submission to the Planning Tribunal in accordance with subsection (2) in respect of the whole or any part of a report of a special tribunal under section 208:
(a) The applicant for the proposed water conservation order to which the report relates;
(b) Any person who made a submission to the special tribunal under section 205;
(c) Any other person to whom the Planning Tribunal grants leave to make a submission on the grounds that the person could not reasonably have been expected to know that the report of the special tribunal would affect the person or an aspect of the public interest which that person represents.

(2) A submission shall be lodged with the Planning Tribunal within 15 working days of receipt of the notification of the decision in accordance with section 208 (2).

(3) A person who makes a submission shall, within 5 working days of the submission being lodged with the Planning Tribunal, serve a copy of it on the applicant for the proposed water conservation order, the Minister, the regional council, the relevant territorial authorities, the relevant iwi authorities, every person who made a submission on the application, and every other person known by the person making the
submission to have made a submission to the Planning Tribunal.

210. Planning Tribunal to hold inquiry—If one or more submissions are lodged with the Planning Tribunal in accordance with section 209, the Tribunal shall conduct a public inquiry in respect of the report to which the submissions relate.

211. Who may be heard at inquiry—The following persons have the right to be heard in person or be represented by another person at an inquiry conducted by the Planning Tribunal under section 210:

(a) The applicant for the proposed water conservation order to which the inquiry relates:

(b) The Minister:

(c) The regional council or territorial authority whose region or district may be affected by the proposed water conservation order:

(d) Every person who made a submission to the special tribunal under section 205:

(e) Any person who is granted leave to make a submission to the Planning Tribunal under section 209 (1) (c).

212. Matters to be considered—in conducting its inquiry, the Planning Tribunal shall have regard to the matters set out in paragraphs (a) to (c) of section 207, and such other matters as the Tribunal thinks fit.

213. Tribunal’s report—On completion of its inquiry, the Planning Tribunal shall—

(a) Make a report to the Minister recommending that—

(i) The draft water conservation order forming part of the special tribunal’s decision be confirmed with or without amendment; or

(ii) The application made to the special tribunal be declined; and

(b) Ensure that its report is publicly notified in such manner as the Tribunal thinks fit.

214. Making of water conservation order—(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make a water conservation order in respect of any water body.
(2) The Minister shall not make a recommendation for the purposes of subsection (1) except in accordance with—
(a) The report of the special tribunal under section 208, where the Planning Tribunal has not conducted an inquiry; or
(b) Where the Planning Tribunal has conducted an inquiry, the report of the Planning Tribunal under section 213.

215. Minister's obligation to state reasons for not accepting recommendation—If a special tribunal reports under section 208, or the Planning Tribunal recommends under section 213, that a water conservation order be made and the Minister decides not to recommend that the Governor-General make the order, then the Minister shall,—
(a) Within 20 sitting days after making his or her decision, lay before the House of Representatives a written statement setting out the reasons for his or her decision; and
(b) Within 20 working days after making his or her decision, serve on the applicant and every person who made a submission to the special tribunal or the Planning Tribunal, such a written statement.

216. Revocation or variation of order—(1) Until the expiration of 2 years after the date a water conservation order is made under section 214 (or under the corresponding provision of any former enactment),—
(a) No application shall be made to the Minister to revoke any such order; and
(b) The Minister shall reject any application made under subsection (2) to amend any such order unless, after having regard to the purposes of the order and the restrictions and prohibitions imposed by the order, the Minister is satisfied that the amendment to which the application relates—
(i) Will have no more than a minor effect; or
(ii) Is of a technical nature and would enable the order to better achieve any purpose for which it was made; and
(c) No recommendation shall be made to the Governor-General—
(i) To revoke any such order; or
(ii) To amend any such order unless the Minister is satisfied that the amendment is of a minor nature or
of a technical nature which would enable the order to better achieve any purpose for which it was made.

(2) Except as provided in subsection (1), any person may at any time apply to the Minister for the revocation or amendment of any water conservation order, and every such application shall state the reasons for the application.

(3) Upon receipt of an application made under subsection (2), if—

(a) The Minister is of the opinion that the application should not be rejected but that, by reason of the minor effect of the amendment, it is unnecessary to hold an inquiry; and

(b) The original applicant for the order (if that person can be located) and the regional council agree to the amendment—

the Minister may recommend that the order be amended, and the Governor-General may, by Order in Council made on the recommendation of the Minister, amend the order accordingly.

(4) Except as provided in subsection (3), an application made under subsection (2) for the revocation or amendment of a water conservation order shall be dealt with in the same manner as an application for such an order, and sections 201 to 215 shall apply accordingly.

217. Effect of water conservation order—(1) No water conservation order shall affect or restrict any resource consent granted or any lawful use established in respect of the water body before the order is made.

(2) Where a water conservation order is operative, the relevant consent authority—

(a) Shall not grant a water permit or discharge permit if the grant of that permit would be contrary to any restriction or prohibition or any other provision of the order:

(b) Shall not grant a water permit, or a discharge permit to discharge water or contaminants into water, unless the combined effect of the grant of any such permit and of existing water permits and discharge permits and existing lawful discharges into the water or taking, use, damming, or diversion of the water is such that the provisions of the water conservation order can remain without change or variation:

(c) Shall, in granting any water permit or discharge permit to discharge water or contaminants into water, impose such conditions as are necessary to ensure that the
provisions of the water conservation order are maintained.

PART X

SUBDIVISION AND RECLAMATIONS

218. Meaning of "subdivision of land"—(1) In this Act, the term "subdivision of land" means—

(a) The division of an allotment—

(i) By an application to a District Land Registrar for the issue of a separate certificate of title for any part of the allotment; or

(ii) By the disposition by way of sale or offer for sale of the fee simple to part of the allotment; or

(iii) By a lease of part of the allotment which, including renewals, is or could be for 20 years or longer; or

(iv) By the grant of a company lease or cross lease in respect of any part of the allotment; or

(v) By an application to a District Land Registrar for the issue of a separate certificate of title for any part of a unit on a unit plan; or

(b) An application to a District Land Registrar for the issue of a separate certificate of title in circumstances where the issue of that certificate of title is prohibited by section 226,—

and the term "subdivide land" has a corresponding meaning.

(2) In this Act, the term "allotment" means—

(a) Any parcel of land under the Land Transfer Act 1952 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not—

(i) The subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or

(ii) A subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or

(b) Any parcel of land or building or part of a building that is shown or identified separately—

(i) On a survey plan; or

(ii) On a licence within the meaning of Part I of the Companies Amendment Act 1964; or

(c) Any unit on a unit plan; or

(d) Any parcel of land not subject to the Land Transfer Act 1952.
(3) For the purposes of subsection (2), an allotment that is—
(a) Subject to the Land Transfer Act 1952 and is comprised in
one certificate of title or for which one certificate of
title could be issued under that Act; or
(b) Not subject to that Act and was acquired by its owner
under one instrument of conveyance—
shall be deemed to be a continuous area of land
notwithstanding that part of it is physically separated from any
other part by a road or in any other manner whatsoever, unless
the division of the allotment into such parts has been allowed
by a subdivision consent granted under this Act or by a
subdivisional approval under any former enactment relating to
the subdivision of land.

219. Information to accompany applications for
subdivision consents—Without limiting section 88 (4) or
section 92, an application for a subdivision consent shall be
accompanied by adequate information to define—
(a) The position of all new boundaries:
(b) Except in the case of a subdivision to be effected by the
grant of a cross lease or company lease or by the
deposit of a unit plan, the areas of all new allotments:
(c) The location and areas of new reserves to be created,
including any esplanade reserves to be set aside on a
survey plan under section 230:
(d) The location and areas of any land below mean high
water springs of the sea, or of any part of the bed of a
river or lake, which is required under section 235 to
be shown on a survey plan as land to be vested in the
Crown:
(e) The location and areas of land to be set aside as new road.

220. Condition of subdivision consents—(1) Without
limiting section 108 or any provision in this Part, the conditions
on which a subdivision consent may be granted may include
any one or more of the following:
(a) A condition requiring that a contribution in the form of
land or another form of financial contribution be
made, being a contribution for reserve purposes or
for land in lieu of reserves, that does not exceed the
maximum amount specified in, or determined in
accordance with, the district plan:
(b) Subject to subsection (2), a condition that any specified
part or parts of the land being subdivided or any
other adjoining land of the subdividing owner be—
(i) Transferred to the owner of any other adjoining land and amalgamated with that land or any part thereof; or

(ii) Amalgamated, where the specified parts are adjoining; or

(iii) Amalgamated, whether the specified parts are adjoining or not, for any purpose specified in a district plan or necessary to comply with any requirement of the district plan; or

(iv) Held in the same ownership, or by tenancy-in-common in the same ownership, for the purpose of providing legal access or part of the legal access to any proposed allotment or allotments in the subdivision:

(c) A condition that any allotment be subject to a requirement as to the bulk, height, location, foundations, or height of floor levels of any structure on the allotments:

(d) A condition that provision be made to the satisfaction of the territorial authority for the protection of the land or any part thereof, or of any land not forming part of the subdivision, against erosion, subsidence, slippage, or inundation from any source (being, in the case of land not forming part of the subdivision, subsidence, slippage, erosion, or inundation arising or likely to arise as a result of the subdividing of the land the subject of the subdivision consent):

(e) A condition that filling and compaction of the land and earthworks be carried out to the satisfaction of the territorial authority:

(f) A condition requiring that any easements be duly granted or reserved:

(g) A condition requiring that any existing easements in respect of which the land is the dominant tenement and which the territorial authority considers to be redundant, be extinguished, or be extinguished in relation to any specified allotment or allotments.

(2) For the purposes of subsection (1) (b)—

(a) Where any condition requires land to be amalgamated, the territorial authority shall, subject to subsection (3), specify (as part of that condition) that such land be held in one certificate of title or be subject to a covenant entered into between the owner of the land and the territorial authority that any specified part or parts of the land shall not, without the consent of the
territorial authority, be transferred, leased, or otherwise disposed of except in conjunction with other land; and

(b) Land shall be regarded as adjoining other land notwithstanding that it is separated from the other land only by a road, railway, drain, water race, river, or stream.

(3) Before deciding to grant a subdivision consent on a condition described in subsection (1) (b), the territorial authority shall consult with the District Land Registrar as to the practicality of that condition. If the District Land Registrar advises the territorial authority that it is not practical to impose a particular condition, the territorial authority shall not grant a subdivision consent subject to that condition, but may if it thinks fit grant a subdivision consent subject to such other conditions under subsection (1) (b) which the District Land Registrar advises are practical in the circumstances.

221. Territorial authority to issue a consent notice—

(1) Where a subdivision consent is granted subject to a condition to be complied with on a continuing basis by the subdividing owner and subsequent owners after the deposit of a survey plan (not being a condition in respect of which a bond is required to be entered into by the subdividing owner, or a completion certificate is capable of being or has been issued), the territorial authority shall, for the purposes of section 224, issue a consent notice specifying any such condition.

(2) Every consent notice shall be authenticated by the territorial authority under section 252 of the Local Government Act 1974.

(3) At any time after the deposit of the survey plan, any condition specified in a consent notice may be varied or cancelled by agreement between the owner for the time being and the territorial authority.

(4) Every consent notice shall be deemed—

(a) To be an instrument creating an interest in the land within the meaning of section 62 of the Land Transfer Act 1952, and may be registered accordingly; and

(b) To be a covenant running with the land when registered under the Land Transfer Act 1952, and shall, notwithstanding anything to the contrary in section 105 of the Land Transfer Act 1952, bind all subsequent owners of the land.
(5) Where a consent notice has been registered under the Land Transfer Act 1952 and any condition in that notice has been varied or cancelled by any agreement under subsection (3) or has expired, the District Land Registrar shall, if he or she is satisfied that any condition in that notice has been so varied or cancelled or has expired, make an entry in the register and on any relevant instrument of title noting that the consent notice has been varied or cancelled or has expired, and the condition in the consent notice shall take effect as so varied or cease to have any effect, as the case may be.

222. Completion certificates—(1) Where under this Part, compliance with a condition of a subdivision consent is dependent on the completion by the owner of any work required by the territorial authority, the territorial authority may, for the purposes of section 224, issue a certificate to the effect that the owner has entered into a bond binding the owner to carry out and complete the work to the satisfaction of the territorial authority within such period as the territorial authority may specify.

(2) The territorial authority may from time to time extend any period specified by it under subsection (1), but any such extension shall not affect any security given for the performance of the bond.

(3) The territorial authority may exercise all of the powers conferred upon a consent authority by section 108 (6) as if the bond entered into under this section had been required as a condition of a subdivision consent.

(4) The provisions of section 109 shall apply as if the bond entered into under this section had been required as a condition of a subdivision consent.

(5) In this section, the term "work" includes anything, whether in the nature of works or otherwise, required by the territorial authority to be done by the owner as a condition of a subdivision consent; but does not include the making of financial contributions (whether in land or money) as a condition of a subdivision consent.

Approval and Deposit of Survey Plans

228. Approval of survey plan by territorial authority—(1) An owner of any land may submit to a territorial authority for its approval, a survey plan in respect of that land if—

(a) A subdivision consent has been obtained for the subdivision to which the survey plan relates, and that consent has not lapsed; or
(b) A certificate of compliance has been obtained, and that certificate has not lapsed.

(2) Subject to sections 230, 235, 240, 241, and 243, a territorial authority shall approve a survey plan submitted to it under subsection (1) if it is satisfied that,—

(a) Where a subdivision consent has been obtained, the survey plan conforms with the subdivision consent; or

(b) Where a certificate of compliance has been obtained, the survey plan conforms with the certificate of compliance.

(3) When a territorial authority has approved a survey plan under this section, it shall affix its common seal to the survey plan or a copy of it. The seal of the authority on the survey plan shall be conclusive evidence that all roads, private roads, reserves, land vested in the authority in lieu of reserves, and private ways shown on the survey plan have been authorised and accepted by the territorial authority under this Act and the Local Government Act 1974.

(4) Nothing in subsection (3) shall affect any obligation of the subdividing owner under any condition of a subdivision consent or bond entered into relating to the subdivision.

224. Restrictions upon deposit of survey plan—No survey plan shall be deposited under the Land Transfer Act 1952 or with the Registrar of Deeds for the purposes of section 11 (1) (a) unless—

(a) Within the preceding 3 years the territorial authority having jurisdiction over the land in the survey plan has approved the survey plan under section 223; and

(b) Where land shown on the survey plan will vest in the Crown or a territorial authority, there is endorsed on the survey plan or deposited with the District Land Registrar or Registrar of Deeds, written consent to the subdivision given by—

(i) In the case of land subject to the Land Transfer Act 1952, every registered proprietor of an interest in or encumbrance on the land; or

(ii) In the case of land not subject to that Act, every person having an interest in or encumbrance on the land that is evidenced by an instrument registered under the Deeds Registration Act 1908; and

(c) There is lodged with the District Land Registrar or the Registrar of Deeds, as the case may require, a certificate signed by the principal administrative officer of the territorial authority stating that all or
any of the conditions of the subdivision consent have been complied with to the satisfaction of the territorial authority and that in respect of such conditions that have not been complied with—

(i) A completion certificate has been issued in relation to such of the conditions to which section 222 applies:

(ii) A consent notice has been issued in relation to such of the conditions to which section 221 applies:

(iii) A bond has been entered into by the subdividing owner in compliance with any condition of a subdivision consent imposed under section 108 (1) (b); and

(d) There is lodged for registration with the District Land Registrar or the Registrar of Deeds, as the case may require, a consent notice in respect of any conditions of a kind referred to in paragraph (c) (ii):

(e) In relation to any unit plan, the requirements of the Unit Titles Act 1972 and the Unit Titles Amendment Act 1979 relating to the deposit of a unit plan have been complied with.

225. Agreement to sell land or building before deposit of plan—(1) Any agreement to sell any land or any building or part of any building that constitutes a subdivision and is made before the appropriate survey plan is approved under section 223, shall be deemed to be made subject to a condition that the survey plan will be deposited under the Land Transfer Act 1952 or in the Deeds Register Office, as the case may be; and no such agreement is illegal or void by reason that it was entered into before the survey plan was deposited.

(2) Subject to subsection (1), any agreement to sell any allotment in a proposed subdivision made before the appropriate survey plan is approved under section 223 shall be deemed to be made subject to the following conditions:

(a) That the purchaser may, by notice in writing to the vendor, cancel the agreement at any time before the end of 14 days after the date of the making of the agreement:

(b) That the purchaser may, at any time after the expiration of 2 years after the date of granting of the resource consent or one year after the date of the agreement, whichever is the later, by notice in writing to the vendor, rescind the contract if the vendor has not made reasonable progress towards submitting a
survey plan to the territorial authority for its approval or has not deposited the survey plan within a reasonable time after the date of its approval.

(3) An agreement may be rescinded under subsection (2) notwithstanding that the parties cannot be restored to the position that they were in immediately before the agreement was made, and in any such case the rights and obligations of each party shall, in the absence of agreement between the parties, be as determined by a Court of competent jurisdiction.

226. Restriction upon issue of certificates of title for subdivision—(1) A District Land Registrar shall not issue a certificate of title for any land that is shown as a separate allotment on a survey plan (being a certificate issued to give effect to the subdivision shown on that survey plan), unless he or she is satisfied, after due inquiry, that—

(a) The plan has been deposited in accordance with section 224 or has been approved by the Chief Surveyor for the purposes of section 228 and the provisions of section 228 (2) have been complied with; or

(b) The plan has been deposited in accordance with section 306 of the Local Government Act 1974 or was a Crown plan to which section 306 (7) of the Local Government Act 1974 applied; or

(c) The plan has been deposited in accordance with the Unit Titles Act 1972; or

(d) The certificate of title is issued to enable effect to be given to any agreement for sale and purchase or agreement to lease or other contract to create an interest in land or a building or part of a building made before the commencement of this Act; or

(e) The territorial authority has certified on the survey plan or a copy of the survey plan—

(i) That there is no district plan for the area to which the survey plan relates, and that the allotment is in accordance with the requirements and provisions of the proposed district plan; or

(ii) That the allotment is in accordance with the requirements and provisions of the district plan and the proposed district plan (if any) for the area to which the survey plan relates; or

(iii) That the allotment is in accordance with a permission or permissions granted under Part II or Part IV of the Town and Country Planning Act 1977.
(2) Nothing in section 11 shall apply to the issue of a certificate of title pursuant to subsection (1).

227. Cancellation of prior approvals—Where—
(a) Before or after the date of commencement of this Act, a survey plan has been deposited under the Land Transfer Act 1952 or under any other authority or in the Deeds Register Office; and
(b) A survey plan of the same land is deposited in accordance with section 224,—

the approval given to the first-mentioned survey plan on or before the date of deposit of the second-mentioned survey plan shall, except as to conditions to which sections 221, 240, 241, and 243 or the equivalent provisions of any former enactment apply,—
(c) Be deemed to be cancelled; or
(d) Where the land in the second-mentioned survey plan is part only of the land in the first-mentioned survey plan, be deemed to be cancelled so far as it relates to the land in the second-mentioned survey plan.

228. Subdivision by the Crown—(1) Where a survey plan of a subdivision by or on behalf of a Minister of the Crown has been approved by a territorial authority under section 223,—
(a) Subject to subsection (2), the approval by the Chief Surveyor of the land district in which the land is situated of the survey plan of the subdivision has effect as if it were the deposit of a survey plan in accordance with section 224; and
(b) The land is then deemed to be subject to the Land Transfer Act 1952 and, subject to subsection (2), a certificate of title for the land may be issued by the District Land Registrar in the name of Her Majesty the Queen at the request of—
(i) The Director-General of Conservation if the land is a conservation area within the meaning of the Conservation Act 1987; or
(ii) The Surveyor-General in every other case—
as if section 16 of the Land Transfer Act 1952 applied.

(2) Section 224 shall apply, with all necessary modifications, to a survey plan to which this section applies and the District Land Registrar shall not issue a certificate of title for any land that is shown as a separate allotment on a survey plan.
approved by a Chief Surveyor unless section 224 is complied with.

Esplanade Reserves

229. Meaning and purposes of “esplanade reserve”—(1) In this Act the term “esplanade reserve” means a reserve within the meaning of the Reserves Act 1977, which shall be either—

(a) A local purpose reserve within the meaning of section 23 of that Act, if vested in the territorial authority under section 239; or

(b) A reserve vested in the Crown under section 236.

(2) The purposes of an esplanade reserve are—

(a) To contribute to the protection of conservation values by, in particular—

(i) Maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or

(ii) Maintaining or enhancing water quality; or

(iii) Maintaining or enhancing aquatic habitats; or

(iv) Protecting the natural values associated with the esplanade reserve; or

(v) Mitigating natural hazards; and

(b) To enable public access to or along the sea, a river, or a lake; and

(c) To enable public recreational use of the esplanade reserve and adjacent sea, river, or lake, where that use is compatible with conservation values.

(3) Nothing in this section or section 236 shall prevent the change of classification or purpose of an esplanade reserve in accordance with the Reserves Act 1977 or the exercise of any other power under that Act.

280. Esplanade reserves to vest on subdivision—(1) A strip of land not less than 20 metres in width along the mark of mean high water springs of the sea, and along the bank of any river, and along the margin of any lake, as the case may be,—

(a) Shall be set aside from any land being subdivided as an esplanade reserve; and

(b) Shall vest in and be administered by the territorial authority.

(2) Every survey plan submitted to the territorial authority under section 229 shall show the area of land to be so set aside.

(3) This section is subject to sections 231 and 232.
231. Vesting where strip of land previously set aside or reserved—Where—

(a) A strip of land along the mean high water mark or the mark of mean high water springs of the sea, or along the bank of any river, or along the margin of any lake, has either—

(i) Been set aside as an esplanade reserve under this section or been reserved for the purpose specified in section 289 of the Local Government Act 1974, or for public purposes pursuant to section 29 (1) of the Counties Amendment Act 1961 or section 11 of the Land Subdivision in Counties Act 1946; or

(ii) Been set aside or reserved for recreation purposes pursuant to any other enactment (whether passed before or after the commencement of this Act and whether or not in force at the commencement of this Act); or

(iii) Been reserved from sale or other disposition pursuant to section 24 of the Conservation Act 1987 or section 58 of the Land Act 1948 or the corresponding provisions of any former Act; and

(b) A survey plan of land adjoining that strip of land is submitted to the territorial authority under section 223,—

then, notwithstanding that any strip of land of a kind referred to in paragraph (a) has been previously reserved or set aside, there shall be set aside on the survey plan as an esplanade reserve under section 230 a strip of land—

(c) Adjoining the strip of land previously set aside; and

(d) Of a width that is the difference between the width of the strip of land previously set aside and not less than 20 metres from the mark of mean high water springs of the sea, and along the bank of any river, and along the margin of any lake, as the case may be.

232. Width of esplanade reserve subject to district plan—(1) Any requirement under this Part to set aside a strip of land as an esplanade reserve is subject to any rule included in a district plan under section 77 (which enables rules to be made providing for esplanade reserves to be of a width greater or less than 20 metres), and sections 230 and 231 shall be read accordingly.

(2) No resource consent shall be granted to do anything that would otherwise contravene a rule included in a district plan under section 77.
288. Approval of survey plans where esplanade reserve required—(1) Subject to subsection (2), the territorial authority shall not approve a survey plan unless any esplanade reserve required under this Part is shown on the survey plan.

(2) Where—

(a) An esplanade reserve is required under this Part in respect of a subdivision which is to be effected by the grant of a cross lease or company lease or by the deposit of a unit plan; and

(b) It is not practical to set aside the esplanade reserve on the survey plan submitted for approval under section 223 (in this section referred to as the "primary survey plan"),—

the territorial authority shall not approve the primary survey plan until a separate survey plan showing the esplanade reserve to be set aside has been prepared and submitted to the territorial authority for approval under this section.

(3) Where the territorial authority approves a separate survey plan under subsection (2),—

(a) A memorandum to that effect shall be endorsed on the primary survey plan and the separate survey plan; and

(b) A District Land Registrar or a Registrar of Deeds shall not deposit the primary survey plan and (in respect of a subdivision by the Crown) the District Land Registrar shall not issue a certificate of title for any separate allotment on the primary survey plan approved by the Chief Surveyor for the purposes of section 228, unless the separate survey plan on which the esplanade reserve is set aside is deposited prior to, or at the same time as, the primary survey plan.

(4) Subject to this section, nothing in section 11 or this Part applies to a separate survey plan approved by a territorial authority under this section.

284. Relationship with conditions imposed under section 220—No land set aside as an esplanade reserve, or transferred to the Crown pursuant to section 235, shall be taken into account for the purposes of a condition imposed under section 220 (1) (a).

285. Vesting of ownership of land below mean high water springs or bed of lake or river in Crown—

(1) Where—
(a) A survey plan is submitted to a territorial authority in accordance with section 223; and

(b) Any land below the mean high water springs of the sea, or any part of the bed of a river or lake, is vested in the owner of the land to which the survey plan relates; and

(c) The Minister of Conservation does not waive the vesting under this section,—

the survey plan shall show as vesting in the Crown such part of the land as is below the mean high water springs of the sea, or as forms part of the bed of that river or lake, as the case may be.

(2) The territorial authority concerned shall not approve a survey plan unless any part of the land required to vest in the Crown under subsection (1) is shown on the survey plan.

286. Transfer of esplanade reserve to the Crown—
Notwithstanding the provisions of the Reserves Act 1977, the Minister of Conservation may, with the prior written agreement of the territorial authority, declare by notice in the Gazette that an esplanade reserve, or any part of an esplanade reserve,—

(a) Shall cease to be vested in and administered by the territorial authority but instead shall vest in the Crown; and

(b) Shall have such classification under the Reserves Act 1977 as may be specified in the Gazette notice, or shall be included in any existing reserve under that Act,—

and, subject to the provisions of the Reserves Act 1977, the reserve shall be administered by the Minister of Conservation in accordance with that classification.

287. Compensation for taking of esplanade reserve—
(1) Subject to subsection (2), where an esplanade reserve of a width greater than 20 metres is required by a district plan to be set aside on a survey plan, the territorial authority shall pay compensation to the subdividing owner (or the owner’s personal representative).

(2) The amount of compensation payable under subsection (1) shall be equal to the value of the land described in paragraph (a) less the value, as at the date of deposit of the survey plan, of the land described in paragraph (b):

(a) The total area of that part of the esplanade reserve required to be set aside on a survey plan which is more than 20 metres from the mark of mean high
water springs of the sea, or along the bank of any river, or along the margin of any lake, as the case may be:

(b) Any area of land within 20 metres from the mark of mean high water springs of the sea, or along the bank of any river, or along the margin of any lake, as the case may be, which is not required to be set aside as esplanade reserve on the survey plan by reason of a rule included in a district plan under section 77.

(3) In the event that the territorial authority and the subdividing owner (or the owner's personal representative) cannot agree as to the amount of compensation payable under subsection (1), the amount shall be determined by the Valuer-General.

(4) The Valuer-General shall give a copy of a valuation made under subsection (3) to the subdividing owner who may, if dissatisfied, within one month of receipt of the valuation from the Valuer-General, object to the valuation. Any such objection shall be in writing, shall be addressed to the Valuer-General, and shall state the grounds of objection.

(5) Sections 20 and 22 of the Valuation of Land Act 1951 shall, so far as they are applicable and with the necessary modifications, apply to an objection made under subsection (4) as if that objection were an objection to an altered valuation under that Act.

Vesting of Roads and Reserves

238. Vesting of roads—(1) When a District Land Registrar or Registrar of Deeds deposits a survey plan, or a Chief Surveyor approves a survey plan to which section 228 applies, the land shown on the survey plan as road to be vested in a local authority or the Crown vests, free from encumbrances (without the necessity of any instrument of release or discharge or otherwise),—

(a) In the case of a regional road, in the territorial authority or regional council, as the case may be:

(b) In the case of a Government road declared as such under any Act, in the Crown:

(c) In the case of a state highway, in the Crown or the territorial authority, as the case may be:

(d) In the case of any other road, in the territorial authority.

(2) This section has effect notwithstanding section 168 of the Land Transfer Act 1952 (which relates to the dedication of roads for public purposes).
239. Vesting of reserves or other land—When a District Land Registrar or a Registrar of Deeds deposits a survey plan, or a Chief Surveyor approves a survey plan to which section 228 applies,—

(a) Any land shown on the survey plan as reserve to be vested in the territorial authority or the Crown, vests in the territorial authority or the Crown, as the case may be, free from encumbrances (without the necessity of any instrument of release or discharge or otherwise) for the purposes shown on the survey plan, and subject to the Reserves Act 1977; and

(b) Any land shown on the survey plan as land to be vested in the territorial authority or in the Crown in lieu of reserves, shall vest in the territorial authority or in the Crown, as the case may be, free from encumbrances (without the necessity of an instrument of release or discharge or otherwise).

Conditions as to Amalgamation of Land

240. Covenant against transfer of allotments—(1) Where a subdivision consent includes a condition under section 220 (1) (b) which requires that the owner enter into a covenant with the territorial authority of the kind referred to in section 220 (2) (a), the territorial authority—

(a) Shall not approve the survey plan unless the owner has entered into such a covenant; and

(b) When the covenant has been entered into, shall endorse on the survey plan a certificate to this effect.

(2) Where a survey plan is endorsed with a certificate of the kind referred to in subsection (1) (b),—

(a) The District Land Registrar shall not deposit the survey plan under the Land Transfer Act 1952, and (in respect of a subdivision by the Crown) shall not issue a certificate of title for any separate allotment on a survey plan approved by the Chief Surveyor for the purposes of section 228; and

(b) The Registrar of Deeds shall not deposit the survey plan in the Deeds Register Office,—

unless the covenant referred to in the certificate has been lodged for registration.

(3) Every covenant referred to in subsection (1) shall be in writing, be signed by the owner, have affixed to it the common seal of the territorial authority, and be deemed—

(a) To be an instrument capable of registration under the Land Transfer Act 1952 and, when so registered, to
create in favour of the territorial authority an interest in the land in respect of which it is registered, within the meaning of section 62 of that Act; and
(b) To run with the land and bind subsequent owners.

241. Amalgamation of allotments—(1) Where a subdivision consent includes a condition under section 220 (1) (b) which requires, in accordance with section 220 (2) (a), that land be held in a particular certificate of title,—
(a) The condition shall be endorsed on the survey plan; and
(b) The District Land Registrar or the Registrar of Deeds shall not deposit the survey plan under the Land Transfer Act 1952 or in the Deeds Register Office, as the case may be; and
(c) In respect of a subdivision of the Crown, the District Land Registrar shall not issue a certificate of title for any separate allotment on a survey plan approved by the Chief Surveyor for the purposes of section 228,—
until he or she is satisfied that the condition has been complied with as fully as may be possible in the office of that Registrar.
(2) When a condition of the kind referred to in subsection (1) has been complied with,—
(a) The separate parcels of land included in the certificate of title in accordance with the condition shall not be capable of being disposed of individually, or of again being held under separate certificates of title, except with the approval of the territorial authority; and
(b) On the issue of the certificate of title, the District Land Registrar shall enter on the certificate of title a memorandum that the land is subject to this section.

242. Prior registered instruments protected—
(1) Where—
(a) For the purpose of complying with a condition of a kind referred to in section 220 (1) (b),—
(i) A covenant is registered in accordance with section 240, to the effect that specified land shall not, without the approval of the territorial authority, be transferred, leased, or otherwise disposed of except in conjunction with other land; or
(ii) Specified land is amalgamated in one certificate of title with any other land in accordance with section 241; and
(b) That other land is already subject to a registered instrument under which a power to sell, a right of
renewal, or a right or obligation to purchase is lawfully conferred or imposed; and

(c) That power, right, or obligation becomes exercisable but is not able to be exercised or fully exercised because of section 240 (2) or section 241 (2)—

the specified land shall be deemed to be and always to have been part of the other land that is subject to that instrument, and all rights and obligations in respect of, and encumbrances on, that other land shall be deemed also to be rights and obligations in respect of, or encumbrances on, the specified land; and the District Land Registrar shall enter upon all relevant certificates of title a memorandum to the effect that the land therein is subject to this subsection.

(2) Where any instrument to which subsection (1) applies is a mortgage, charge, or lien, it shall be deemed to have priority over any mortgage, charge, or lien against the specified land which is registered subsequent to the issue of the certificate of title pursuant to section 241 or the registration of the covenant entered into pursuant to section 240, as the case may be; and the District Land Registrar shall enter upon all relevant certificates of title a memorandum to the effect that the land therein is subject to this subsection.

248. Survey plan approved subject to grant or reservation of easements—Where a subdivision consent is granted subject to a condition that any specified easements be granted or reserved, the following provisions apply:

(a) No such easement shall—

(i) Be surrendered by the owner of the dominant tenement; or

(ii) In the case of an easement in gross, be surrendered by the grantee of the easement; or

(iii) Be merged by transfer to the owner of the servient tenement; or

(iv) Be varied—except with the written consent of the territorial authority:

(b) The territorial authority shall not approve the survey plan unless there is endorsed on the survey plan a memorandum showing, with respect to each such easement, which is the dominant tenement and which is the servient tenement or, in the case of an easement in gross, the name of the proposed grantee and which is the servient tenement:
(c) The District Land Registrar or the Registrar of Deeds shall refuse to register any instrument of transfer or conveyance or lease or other disposition of any allotment shown on the survey plan, unless the Registrar is satisfied that all easements so specified which are appurtenant to that allotment or to which that allotment is subject have been duly granted or reserved or will by the registration of that instrument be granted or reserved:

(d) The District Land Registrar or the Registrar of Deeds shall endorse on the instrument by which the easement is granted or reserved, and also on any relevant certificates of title, a memorial that the easement is subject to the provisions of this section:

(e) The territorial authority may at any time, whether before or after the survey plan has been deposited in the Land Registry Office or the Deeds Register Office, revoke the condition in whole or part:

(f) When a territorial authority revokes a condition in whole or in part, then—

(i) Where the survey plan has not been deposited, a memorandum of the revocation shall be endorsed on the survey plan;

(ii) Where the survey plan has been deposited, the territorial authority shall forward an authenticated copy of the resolution of the authority revoking that condition to the District Land Registrar or the Registrar of Deeds, who must note the records accordingly.

Company Leases and Cross Leases

244. Company leases and cross leases—(1) A consent authority shall not grant a subdivision consent which is to be given effect to by the grant of a cross lease or company lease unless every building permit necessary for the construction of the building to which the lease relates has been granted by the territorial authority pursuant to its bylaws.

(2) For the purposes of this section,—

“Building” includes part of a building:

“Construction”, in relation to any building, includes its reconstruction and also includes an extension of or addition to or the division or conversion of the building.
Reclamations

245. Consent authority approval of a plan of survey of a reclamation—

(1) The holder of every resource consent granted for a reclamation shall as soon as reasonably practicable after completion of the reclamation, submit to the consent authority for its approval a plan of survey in respect of the land that has been reclaimed.

(2) The plan of survey referred to in subsection (1) shall be prepared in accordance with regulations made under the Survey Act 1986 relating to survey plans within the meaning of those regulations, and shall show and define—

(a) The area reclaimed, including its location and the position of all new boundaries; and

(b) Subject to subsection (3), the location and size of the portion of that area which is to be set apart as an esplanade reserve.

(3) Subject to section 71, the esplanade reserve to be shown on the plan of survey under subsection (2) (b) shall be not less than 20 metres in width along the mark of mean high water springs of the sea, or along the bank of any river, or along the margin of any lake, as the case may be.

(4) A consent authority shall approve a plan of survey submitted to it under subsection (1) if, and only if, it is satisfied that—

(a) The reclamation conforms with the resource consent and any relevant provisions of any regional plan; and

(b) The plan of survey conforms with subsections (2) and (3) and the resource consent; and

(c) In respect of any condition of the resource consent that has not been complied with—

(i) A bond has been given under section 108 (1) (b); or

(ii) A covenant has been entered into under section 108 (1) (c).

(5) The consent authority’s approval of a plan of survey submitted to it under subsection (1) shall be given—

(a) Where the reclamation is a restricted coastal activity, by the Minister of Conservation—

(i) Signing the plan of survey (or a copy of it); and

(ii) Signing and dating a certificate stating that—

(A) The reclamation conforms with the coastal permit and the relevant provisions of the regional coastal plan; and
(B) In respect of any condition of the coastal permit or resource consent that has not been complied with, a bond has been given under section 108 (1) (b) or a covenant has been entered into under section 108 (1) (c):

(b) Where the reclamation is not a restricted coastal activity, by—

(i) The regional council affixing its common seal to the plan of survey (or a copy of it); and

(ii) The principal administrative officer of the regional council signing and dating a certificate stating that—

(A) The reclamation conforms with the resource consent and the relevant provisions of any regional plan; and

(B) In respect of any condition of the resource consent that has not been complied with, a bond has been given under section 108 (1) (b) or a covenant has been entered into under section 108 (1) (c).

(6) After signing the certificate referred to in subsections (5) (a) (ii) or (5) (b) (ii), the consent authority shall forward a copy of that certificate to the relevant territorial authority.

246. Restrictions on deposit of plan of survey for reclamation—(1) The holder of every resource consent granted for a reclamation shall take all steps necessary to ensure that the plan of survey is deposited under the Land Transfer Act 1952 or with the Registrar of Deeds as soon as reasonably practicable after the date the plan of survey is approved by the relevant consent authority under section 245.

(2) No plan of survey of a reclamation shall be deposited under the Land Transfer Act 1952 or with the Registrar of Deeds unless—

(a) Within the preceding 3 years the relevant consent authority has approved the plan of survey under section 245; and

(b) There is lodged with the District Land Registrar or the Registrar of Deeds a copy of the certificate issued under section 245 (5) (a) (ii) or (5) (b) (ii).

(3) On the deposit of a plan of survey under the Land Transfer Act 1952 or by the Registrar of Deeds, the land shown on that plan as esplanade reserve shall be deemed to be set apart and vested in the Crown as local purpose reserve within
the meaning of section 23 of the Reserves Act 1977 for the purposes described in section 229 (2) of this Act.

(4) Subsection (3) shall apply notwithstanding section 167 of the Land Act 1948.

PART XI
PLANNING TRIBUNAL

247. Planning Tribunal continued—There shall continue to be a Court of record called the Planning Tribunal which, in addition to the jurisdiction and powers specially conferred on it by this or any other Act, shall have all the powers inherent in a Court of record.

248. Membership of Planning Tribunal—The Planning Tribunal shall consist of the following members:
(a) Planning Judges appointed in accordance with section 250;
(b) Planning Commissioners appointed in accordance with section 254.

Planning Judges and Alternate Planning Judges

249. Eligibility for appointment as a Planning Judge or alternate Planning Judge—(1) A person shall not be appointed or hold office as a Planning Judge unless he or she is, or is eligible to be, a District Court Judge. If an appointee is not a District Court Judge at the time of appointment as a Planning Judge, he or she shall be appointed as a District Court Judge at that time.

(2) A person shall not be appointed or hold office as an alternate Planning Judge unless he or she is a District Court Judge or a Maori Land Court Judge.

250. Appointment of Planning Judges and alternate Planning Judges—(1) The Governor-General may, on the recommendation of the Minister of Justice, after consultation with the Minister for the Environment and the Minister of Maori Affairs, appoint a person as a Planning Judge or an alternate Planning Judge.

(2) A person shall hold office as a Planning Judge or as an alternate Planning Judge for such term as he or she holds office as a District Court Judge or Maori Land Court Judge, unless he or she sooner resigns or is removed from office under this Act.

(3) At any one time—
(a) No more than 5 Planning Judges shall hold office; and
(b) Any number of alternate Planning Judges shall hold office.
251. Principal Planning Judge—(1) The Governor-General may, on the recommendation of the Minister of Justice, appoint a Planning Judge as the Principal Planning Judge.

(2) The Principal Planning Judge shall be responsible for ensuring the orderly and expeditious discharge of the business of the Tribunal and accordingly may, subject to the provisions of this or any other Act and to such consultation with the Planning Judges as is appropriate and practicable, make arrangements as to the Planning Judge or Judges and member or members who is or are to exercise the Tribunal's jurisdiction in particular matters or classes of matters and in particular places and areas.

252. When an alternate Planning Judge may act—(1) An alternate Planning Judge may act as a Planning Judge when the Principal Planning Judge, in consultation with the Chief District Court Judge or Chief Maori Land Court Judge, considers it necessary for the alternate Planning Judge to do so.

(2) When an alternate Planning Judge acts as a Planning Judge he or she is to be considered a member of the Planning Tribunal for all purposes.

Planning Commissioners and Deputy Planning Commissioners

253. Eligibility for appointment as Planning Commissioner or Deputy Planning Commissioner—When considering whether a person is suitable to be appointed as a Planning Commissioner or Deputy Planning Commissioner of the Planning Tribunal, the Minister of Justice shall have regard to the need to ensure that the Tribunal possesses a mix of knowledge and experience in matters coming before the Tribunal, including knowledge and experience in—

(a) Economic, commercial, and business affairs, local government, and community affairs:
(b) Planning, resource management, and heritage protection:
(c) Environmental science, including the physical and social sciences:
(d) Architecture, engineering, surveying, minerals technology, and building construction:
(e) Matters relating to the Treaty of Waitangi and kaupapa Maori.

254. Appointment of Planning Commissioner or Deputy Planning Commissioner—(1) The Governor-General may, on the recommendation of the Minister of Justice, after consultation with the Minister for the
Environment and the Minister of Maori Affairs, appoint a person as a Planning Commissioner or a Deputy Planning Commissioner of the Planning Tribunal for a period not exceeding 5 years.

(2) A person may be reappointed as a Planning Commissioner or a Deputy Planning Commissioner any number of times.

(3) At any one time—
(a) No more than 10 Planning Commissioners shall hold office; and
(b) Any number of Deputy Planning Commissioners shall hold office.

255. When a Deputy Planning Commissioner may act—(1) A Deputy Planning Commissioner may act in place of a Planning Commissioner when—
(a) The Planning Commissioner is unavailable; and
(b) The Principal Planning Judge considers it necessary that the Deputy Planning Commissioner do so.

(2) When a Deputy Planning Commissioner is acting for a Planning Commissioner, the Deputy Planning Commissioner shall be considered as a Planning Commissioner of the Planning Tribunal for all purposes.

256. Oath of office—A person appointed as a Planning Commissioner or a Deputy Planning Commissioner of the Planning Tribunal shall, before undertaking any duties as such, take an oath of office that he or she will honestly and impartially perform the duties of the office.

Removal and Resignation of Members

257. Resignation—A Planning Judge, alternate Planning Judge, Planning Commissioner, or Deputy Planning Commissioner may resign his or her office as such by giving written notice to the Minister of Justice.

258. Removal of members—(1) The Governor-General may, if he or she thinks fit, remove a Planning Judge, alternate Planning Judge, Planning Commissioner, or Deputy Planning Commissioner from his or her office as such for inability or misbehaviour.

(2) The removal under subsection (1) of a District Court Judge from office as a Planning Judge or an alternate Planning Judge does not operate to cancel his or her appointment as a District Court Judge.
259. Special advisors—(1) The Principal Planning Judge may appoint as a special advisor a person who is able to assist the Planning Tribunal in a proceeding before it.

(2) A special advisor is not a member of the Planning Tribunal but may sit with it and assist it in any way the Tribunal determines.

260. Registrar and other officers—(1) The Planning Tribunal—

(a) Shall have a Registrar; and

(b) May have other persons to assist it in an administrative capacity.

(2) The Registrar and every other person assisting the Tribunal shall—

(a) Be appointed under the State Sector Act 1988; and

(b) Be officers of the Tribunal.

(3) An officer of the Tribunal may also hold another office or employment in the Public Service.

Miscellaneous Provisions Relating to Tribunal

261. Protection from legal proceedings—No action lies against any member of the Planning Tribunal for anything they say, do, or omit to say or do, while acting in good faith in the performance of their duties.

262. Planning Tribunal members who are ratepayers—A member of the Planning Tribunal is not to be considered to have an interest in a proceeding before the Tribunal solely on the ground that the member is a ratepayer.

263. Remuneration of Planning Commissioners and special advisors—There shall be paid, out of money appropriated by Parliament for the purpose, to every Planning Commissioner, Deputy Planning Commissioner, and special advisor, remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly, and—

(a) The Tribunal shall be a statutory Board for the purposes of that Act; and

(b) Every special advisor shall be deemed to be a member of a statutory Board.
264. **Annual report of Registrar**—(1) The Registrar shall no later than the 31st day of August in each year, deliver to the Minister of Justice a report stating such information relating to the administration, workload, and resources of the Planning Tribunal during the year ending on the preceding 30th day of June as the Minister of Justice may require.

(2) The Minister of Justice shall lay before the House of Representatives each report received by him or her under this section within 10 sitting days of receiving it.

**Constitution of Tribunal**

265. **Planning Tribunal sittings**—(1) The quorum for the Planning Tribunal is—

(a) One Planning Judge and one Planning Commissioner sitting together; or

(b) One Planning Judge sitting alone for the purposes of section 278 or proceedings under Part XII; or

(c) One Planning Commissioner sitting alone in accordance with a direction of the Principal Planning Judge under section 280.

(2) When a Planning Judge sits with a Planning Commissioner or special advisor, the Planning Judge shall preside at the sitting.

(3) A decision of a majority of the members of the Planning Tribunal present at a sitting is the decision of the Tribunal but, if there is no majority, the decision of the presiding member is the decision of the Tribunal.

266. **Constitution of the Planning Tribunal not to be questioned**—(1) It is in the sole discretion of the member of the Planning Tribunal presiding at a sitting of the Tribunal to decide whether the Tribunal has been properly constituted and convened.

(2) The exercise of discretion under subsection (1) may not be questioned in proceedings before the Tribunal or in another Court.

**Conferences and Additional Dispute Resolution**

267. **Conferences**—(1) A Planning Judge may at any time after the lodging of proceedings require the parties, or any Minister, local authority, or other person which or who has given notice of intention to appear under section 274 to be present in person or by representative at a conference presided over by a member of the Tribunal.
(2) Any party may request a Planning Judge to convene a conference under subsection (1).

(3) The member of the Tribunal presiding at any conference under subsection (1) may, after giving the parties an opportunity to be heard, do all or any of the following things:

(a) Direct that such amendments to pleadings be made as appear to the member to be necessary:

(b) Direct that any admissions which have been made by any party and which do not appear in the pleadings, be recorded in such a manner as the member thinks fit:

(c) Define the issues to be tried:

(d) Direct that any issue, whether of fact or of law or of both, be tried before any other issue:

(e) Fix the dates by which the respective parties shall deliver to the Tribunal and to the other parties, statements of the evidence to be given on behalf of the respective parties:

(f) Direct the order in which the parties shall present their respective cases:

(g) Direct the order in which a party may cross-examine witnesses called on behalf of any other party:

(h) Limit the number of addresses and cross-examinations of witnesses by parties having the same interest:

(i) Direct that the evidence, or the evidence of any particular witness or witnesses, shall be given orally in open hearing, or by affidavit, or by pre-recorded statement or report duly sworn by the witness before or at the hearing, or partly by one and partly by another or other of such modes of testifying; except that in every case any opposite party shall (if that party so requires) have the opportunity of cross-examining any witness:

(j) Determine any question of admissibility of any evidence proposed to be tendered at the hearing by any party:

(k) Require further or better particulars of any matters connected with the proceedings:

(l) Adjourn the conference to allow for consultations among the parties:

(m) Give such further or other directions as he or she considers necessary.

(4) The member of the Tribunal presiding at any conference under subsection (1)—

(a) Shall ensure that the parties are given an opportunity to make all admissions and all agreements as to the conduct of the proceedings which ought reasonably to be made by them; and
(b) With a view to such special order (if any) as to costs as may be just being made at the hearing, may cause a record to be made, in such form as the member may direct, of any refusal to make any admission or agreement.

268. Additional dispute resolution—(1) At any time after lodgment of any proceedings, for the purpose of encouraging settlement, the Planning Tribunal, with the consent of the parties and of its own motion or upon request, may ask one of its members or another person to conduct mediation, conciliation, or other procedures designed to facilitate the resolution of any matter before or at any time during the course of a hearing.

(2) A member of the Planning Tribunal is not disqualified from resuming his or her role to decide a matter by reason of the mediation, conciliation, or other procedure under subsection (1) if—

(a) The parties agree that the member should resume his or her role and decide the matter; and

(b) The member concerned and the Tribunal are satisfied that it is appropriate for him or her to do so.

Procedure and Powers

269. Tribunal procedure—(1) Except as expressly provided in this Act, the Planning Tribunal may regulate its own proceedings in such manner as it thinks fit.

(2) Planning Tribunal proceedings may be conducted without procedural formality where this is consistent with fairness and efficiency.

(3) The Planning Tribunal shall recognise tikanga Maori where appropriate.

(4) The Planning Tribunal may use or allow the use in any proceedings, or conference under section 267, of any telecommunication facility which will assist in the fair and efficient determination of the proceedings or conference.

270. Hearing matters together—(1) The Planning Tribunal shall hear together 2 or more proceedings relating to the same subject-matter unless in the Tribunal’s opinion it is impractical, unnecessary, or undesirable.

(2) Subsection (1) applies whenever the Planning Tribunal has jurisdiction to hear the proceedings, whether or not they arise under this Act or another Act or regulation or a combination of Acts and regulations.
271. **Local hearings**—The Planning Tribunal shall conduct any conference or hearing at a place as near to the locality of the subject-matter to which the proceedings relate as the Tribunal considers convenient unless the parties otherwise agree.

272. **Hearing of proceedings**—(1) The Planning Tribunal shall hear and determine all proceedings as soon as practicable after the date on which the proceedings are lodged with it unless, in the circumstances of a particular case, it is not considered appropriate to do so.

(2) The time and place of hearing of proceedings before the Tribunal shall be fixed by the Registrar in accordance with regulations made under this Act.

(3) The Registrar shall give not less than 15 working days notice of the time and place fixed for a hearing to every party to the proceedings concerned, except that a Planning Judge may reduce that period in any particular case if he or she thinks fit.

(4) If a person who has initiated proceedings before the Tribunal fails without sufficient cause to appear before the Tribunal at the time and place fixed for the hearing, the Tribunal may dismiss the proceedings.

273. **Successors to parties to proceedings**—(1) Proceedings brought before the Planning Tribunal shall be deemed to be also brought on behalf of the personal representatives of the person bringing the same and on behalf of the successors in title, if any, to the rights or interests affected thereby.

(2) Every party appearing in proceedings before the Planning Tribunal shall be deemed to do so also on behalf of the party's personal representatives and the successors in title, if any, to the rights or interests affected thereby.

274. **Representation at proceedings**—(1) In proceedings before the Planning Tribunal under this Act, the Minister, any local authority, any person having any interest in the proceedings greater than the public generally, and any party to the proceedings, may appear and may call evidence on any matter that should be taken into account in determining the proceedings.

(2) Where any person who is not a party to the proceedings before the Planning Tribunal under this Act wishes to appear, that person shall give notice to the Tribunal and every party
not less than 10 working days before the commencement of the hearing.

275. Personal appearance or by representative—A person who has a right to appear or is allowed to appear before the Planning Tribunal may appear in person or be represented by another person.

276. Evidence—(1) The Planning Tribunal may—
(a) Receive anything in evidence that it considers appropriate to receive; and
(b) Call for anything to be provided in evidence which it considers will assist it to make a decision or recommendation; and
(c) Call before it a person to give evidence who, in its opinion, will assist it in making a decision or recommendation.

(2) The Planning Tribunal is not bound by the rules of law about evidence that apply to judicial proceedings.

(3) The Planning Tribunal may receive evidence written or spoken in Maori and the Maori Language Act 1987 shall apply accordingly.

277. Hearings and evidence generally to be public—
(1) All hearings of the Planning Tribunal shall be held in public except as provided in subsection (2).

(2) The Planning Tribunal may—
(a) Order that any evidence be heard in private:
(b) Prohibit or restrict the publication of any evidence— if it considers that the reasons for doing so outweigh the public interest in a public hearing and publication of evidence.

278. Tribunal has powers of a District Court—(1) The Planning Tribunal and Planning Judges have the same powers that a District Court has in the exercise of its civil jurisdiction in respect of—
(a) Adding and substituting parties:
(b) Summoning witnesses:
(c) Administering oaths:
(d) Subject to subsection (2), ordering the discovery or production of documents:
(e) Hearing evidence:
(f) Conducting proceedings:
(g) Maintaining order.
(2) An application for an order for discovery or production of documents may be made only with the leave of a Planning Judge.

(3) The Registrar of the Tribunal may act on behalf of the Planning Tribunal or a Planning Judge to do any act preliminary or incidental to any proceedings including the issue of summonses requiring the attendance of witnesses or the production of documents when he or she is directed to do so by a Planning Judge.

279. Powers of a Planning Judge sitting alone—(1) A Planning Judge sitting alone may make any of the following orders:

(a) An order in the course of proceedings:
(b) An order that is not opposed:
(c) An order in respect of a matter which the parties to the proceedings agree should be heard and decided by a Planning Judge sitting alone:
(d) An order giving directions as to service of anything:
(e) An order in any proceedings when the matter at issue is substantially a question of law only:
(f) An order made on the application of a party to proceedings directing that any proceedings should be heard and decided by a Planning Judge sitting alone because the matter at issue is substantially a question of law only:
(g) An order as to costs:
(h) An order made on an application for a rehearing:
(i) An order on any appeal against any requirement to pay an administrative charge:
(j) A declaration relating to any inconsistency between a plan and a policy statement:
(k) An order directing that any determination under section 91 (deferral pending application for additional consents) be revoked.

(2) A Planning Judge sitting alone may—
(a) Exercise any powers conferred by the Principal Planning Judge that could have been conferred on a Planning Commissioner under section 280; and
(b) Waive a requirement or give a direction under section 281.

(3) A Planning Judge sitting alone may, having regard to the matters set out in section 42 and to such other matters as the Planning Judge thinks fit,
(a) On an application made under section 42 (4), and on such terms as the Judge thinks fit, make an order cancelling or varying any order made by a local authority under that section:

(b) On an application made under section 42 (5), and on such terms as the Judge thinks fit, make an order described in section 42 (2) and having the same effect as an order made under section 42:

(c) On an application made at any stage of proceedings before the Planning Tribunal, and on such terms as the Judge thinks fit, make an order described in section 42 (2) and having the same effect as an order made under section 42—

or may decline to make any such order.

(4) A Planning Judge sitting alone may, at any stage of the proceedings and on such terms as the Judge thinks fit, order that the whole or any part of that person's case be struck out if the Judge considers—

(a) That it is frivolous or vexatious; or

(b) That it discloses no reasonable or relevant case in respect of the proceedings; or

(c) That it would otherwise be an abuse of the process of the Planning Tribunal to allow the case to be taken further.

280. Powers of Planning Commissioner sitting without Planning Judge—(1) A Planning Commissioner or Planning Commissioners sitting without a Planning Judge may exercise such powers (not including the power to hear and determine proceedings) as may be conferred by the Principal Planning Judge either generally or in relation to the matter concerned and on such terms and conditions as the Principal Planning Judge may think fit.

(2) Any party may, within 15 working days of the exercise of any power under this section, apply in writing for leave to make an application for a review of the exercise of that power by a fully constituted Planning Tribunal.

(3) If leave is granted by a Planning Judge, the party may, within a further 7 working days, apply in writing for a review of the exercise of that power by a fully constituted Planning Tribunal.

(4) The Planning Tribunal, on any such review, may substitute or set aside the Planning Commissioner's decision and make such further or other orders as the case may require.
281. Waivers and directions—(1) A person may apply to the Planning Tribunal to—
(a) Waive a requirement of this Act or another Act or a regulation about—
(i) The time within which anything shall be served; or
(ii) The time within which any appeal, submission, or reference to the Planning Tribunal shall be lodged; or
(iii) The method of service; or
(iv) The documents that shall be served; or
(v) The persons on whom anything shall be served; or
(vi) The information, or the accuracy of information, that shall be supplied; or
(b) Give a direction about—
(i) The time within which or the method by which anything is to be served; or
(ii) What shall be served, whether or not the direction complies with this Act or any other Act or a regulation; or
(iii) The terms, including terms as to adjournment, costs, or other things, on which any information shall be supplied.
(2) The Planning Tribunal shall not grant an application under this section unless it is satisfied that none of the parties to the proceedings will be unduly prejudiced.
(3) Without limiting subsection (2), the Planning Tribunal shall not grant an application under this section to waive a requirement as to the time within which anything shall be lodged with the Tribunal (to which subsection (1) (a) (ii) applies) unless it is satisfied that—
(a) The appellant or applicant and the respondent consent to that waiver; or
(b) Any of those parties who have not so consented will not be unduly prejudiced.
(4) Without limiting subsections (2) and (3), the Planning Tribunal may waive a requirement as to time under this section whether or not an application is made under this section before the requirement has been breached.

282. Power to commit for contempt—(1) If any person—
(a) Wilfully insults, assaults, threatens, or intimidates the Tribunal or any member of it or any special advisor to or officer of the Tribunal, during a sitting of the
Tribunal, or in going to or returning from any sitting; or

(b) wilfully interrupts the proceedings of the Tribunal or otherwise misbehaves while the Tribunal is sitting; or

(c) wilfully and without lawful excuse disobeys an order or direction of a member of the Tribunal in the course of any proceedings before the Tribunal—

any officer of the Tribunal, with or without the assistance of any member of the Police or other person, may, in accordance with an order given by a member of the Tribunal, take the person into custody and detain him or her for a period expiring not later than 1 hour following the rising of the Tribunal, and a Planning Judge, may, if he or she thinks fit, by warrant under his or her hand, commit the person to prison for any period not exceeding 10 days or impose a fine not exceeding $1,500.

(2) A warrant under subsection (1) may be filed in any District Court and shall then be enforceable as an order made by that Court.

288. Non-attendance or refusal to co-operate—

(1) Except as provided in subsection (2), no person shall, without reasonable cause—

(a) fail to appear in accordance with a summons issued by a Planning Judge or a Planning Commissioner, or fail to produce anything that he or she is required to produce by such a summons; or

(b) refuse to be sworn or give evidence at proceedings before the Tribunal; or

(c) refuse to answer any questions put by a member of the Tribunal during proceedings before the Tribunal.

(2) A person need not comply with subsection (1) if he or she was not given travelling expenses in accordance with the scale for witnesses in civil cases under the District Courts Act 1947 either—

(a) at the time the summons was served; or

(b) at some reasonable time before the hearing.

284. Witnesses' allowances—(1) A witness attending the Planning Tribunal in accordance with a summons is entitled to be paid, by the party requiring his or her attendance, expenses for travelling and maintenance while absent from his or her usual residence.

(2) Payment of expenses shall be made in accordance with the scale of allowances for witnesses in civil cases under the District Courts Act 1947.
(3) When a witness is called or evidence is obtained by the Tribunal, the Tribunal may direct that the expenses incurred—
(a) Form part of the costs of the proceedings; or
(b) Be paid from money appropriated by Parliament for the purpose.

285. Awarding costs—(1) The Planning Tribunal may order any person appearing before it to pay—
(a) To any other person appearing before it, any costs and expenses (including witness expenses) incurred by that other person:
(b) To the Crown, the Tribunal’s costs and expenses according to the scale of costs set out in regulations.
(2) If any person fails to proceed with a hearing at the time arranged for it by the Planning Tribunal, or to give adequate notice of abandonment of proceedings, the Planning Tribunal may order the person in default to pay—
(a) To the Crown; or
(b) To another party— any of the costs or expenses suffered by the Crown or the other party.

286. Enforcing orders for costs—An order for costs made by the Planning Tribunal may be filed in the District Court of the district named in the order and then becomes enforceable as a judgment of the District Court in its civil jurisdiction.

287. Reference of questions of law to High Court—
(1) The Planning Tribunal may, in any proceedings before it, state a case for the opinion of the High Court on any point of law that arises in those proceedings; and for that purpose may either conclude the proceedings subject to that opinion, or adjourn them until after that opinion has been given.
(2) The case shall be settled and signed by a Planning Judge and sent to the Registrar of the High Court at Wellington.
(3) The settling and signing of the case by a Planning Judge is deemed to be the statement of the case by the Tribunal.
(4) The Planning Tribunal may, in relation to any case stated under this section, after giving notice to the parties of its intention to do so, request the Registrar of the High Court at Wellington for a fixture for the determination of the case.
(5) Every such case shall be determined by the Administrative Division of the High Court.
288. Privileges and immunities—Witnesses and counsel appearing before the Planning Tribunal have the same privileges and immunities as they have when they appear in the same capacity in proceedings in a District Court.

Appeals, Inquiries, and other Proceedings before Planning Tribunal

289. Reply to appeal or request for inquiry—Where notice of an appeal or inquiry is given, the person whose decision is appealed against, or is the subject of the inquiry, shall, within 20 working days of being served with notice of the appeal or inquiry or such further time as a Planning Judge may allow,—

(a) Lodge with the Registrar a written reply in the prescribed form to the matters raised in the notice; and

(b) Serve a copy of the reply on every other person served with a copy of the notice.

290. Powers of Tribunal in regard to appeals and inquiries—(1) The Planning Tribunal has the same power, duty, and discretion in respect of a decision appealed against, or to which an inquiry relates, as the person against whose decision the appeal or inquiry is brought.

(2) The Planning Tribunal may confirm, amend, or cancel a decision to which an appeal relates.

(3) The Planning Tribunal may recommend the confirmation, amendment, or cancellation of a decision to which an inquiry relates.

(4) Nothing in this section affects any specific power or duty the Planning Tribunal has under this Act or under any other Act or regulation.

291. Other proceedings before Tribunal—(1) Except as otherwise provided in this Act, or any other Act, or regulation, every originating application to the Planning Tribunal shall be made by notice of motion. The notice of motion shall specify the order sought, the grounds upon which the application is made, and the persons upon whom the notice is to be served. Every notice of motion shall be supported by an affidavit as to the matters giving rise to the application.

(2) The applicant shall as soon as reasonably practicable after lodging a notice of motion with the Registrar, serve copies of the notice and affidavit upon such persons, if any, as are parties to the application and advise the Registrar accordingly.
(3) A Planning Judge may at any time direct the applicant to serve a copy of the notice of motion and affidavit upon any other person.

(4) Every person upon whom a notice of motion has been served shall, if he or she desires to be heard on the application, within 15 working days after the date of service upon him or her, give written notice in the prescribed form to the Registrar and the applicant of his or her desire to be heard and of the matters he or she wishes to advance.

**Tribunal's Powers in regard to Plans and Policy Statements**

292. **Remedying defects in plans**—(1) The Planning Tribunal may, in any proceedings before it, direct a local authority to amend a regional plan or district plan to which the proceedings relate for the purpose of—

(a) Remedying any mistake, defect, or uncertainty; or

(b) Giving full effect to the plan.

(2) The local authority to whom a direction is made under subsection (1) shall comply with the direction without further formality.

293. **Tribunal may order change to policy statements and plans**—(1) On the hearing of any appeal against, or inquiry into, the provisions of any policy statement or plan, the Planning Tribunal may direct that changes be made to the policy statement or plan.

(2) If on the hearing of any such appeal or inquiry, the Tribunal considers that a reasonable case has been presented for changing or revoking any provision of a policy statement or plan, and that some opportunity should be given to interested parties to consider the proposed change or revocation, it may adjourn the hearing until such time as interested parties can be heard.

(3) As soon as reasonably practicable after adjourning a hearing under subsection (2), the Tribunal shall—

(a) Indicate the general nature of the change or revocation proposed and specify the persons who may make submissions; and

(b) Indicate the manner in which those who wish to make submissions should do so; and

(c) Require the local authority concerned to give public notice of any change or revocation proposed and of the opportunities being given to make submissions and be heard.
(4) Where the Tribunal finds any inconsistency between any policy statement or plan before it and any other policy statement (whether national, New Zealand coastal, or regional), plan, or water conservation order with which the policy statement or plan may not be inconsistent, the Tribunal may, if it considers the inconsistency is of minor significance and does not affect the general intent and purpose of the policy statement or plan, allow the inconsistency to remain.

294. Review of decision by Tribunal—(1) Where, after any decision has been given by the Planning Tribunal, new and important evidence becomes available or there has been a change in circumstances that in either case might have affected the decision, the Tribunal shall have power to order a rehearing of the proceedings on such terms and conditions as it thinks reasonable.

(2) Any party may apply to the Tribunal on any of those grounds for a rehearing of the proceedings; and in any such case the Tribunal, after notice to the other parties concerned and after hearing such evidence as it thinks fit, shall determine whether and (if so) on what conditions the proceedings shall be reheard.

(3) The decision of the Tribunal on any such proceedings shall have the same effect as a decision of the Tribunal on the original proceedings.

Decisions of Planning Tribunal

295. Planning Tribunal decisions are final—A decision of the Planning Tribunal under this Act, or another Act, or regulation, on any matter other than an inquiry, is final unless it is reheard under section 294 or appealed under section 299.

296. No review of decisions unless right of appeal or reference to inquiry exercised—If there is a right to refer any matter for inquiry to the Planning Tribunal or to appeal to the Tribunal against a decision of a local authority, consent authority or any person under this Act or under any other Act or regulation—

(a) No application for review under Part I of the Judicature Amendment Act 1972 may be made; and

(b) No proceedings seeking a writ of, or in the nature of, mandamus, prohibition, or certiorari, or a declaration or injunction in relation to that decision, may be heard by the High Court—
unless the right has been exercised by the applicant in the proceedings and the Tribunal has made a decision.

297. Decisions of Tribunal to be in writing—Every decision, determination, or order of the Planning Tribunal, unless it is pronounced orally at a sitting of the Tribunal, and every report, recommendation, or determination made by the Tribunal on an inquiry, shall be in writing signed by the member who presided at the hearing or inquiry or by a majority of the members who sat on the hearing or inquiry and shall be authenticated with the seal of the Tribunal.

298. Documents judicially noticed—The Planning Tribunal shall continue to have a seal, and a document to which the seal of the Tribunal has been affixed shall be judicially noticed.

Appeals from Planning Tribunal Decisions

299. Appeal on a question of law—(1) Any party to any proceedings before the Planning Tribunal under this Act, or another Act, or regulation, may appeal against the decision or report and recommendation of the Tribunal to the High Court on a point of law.

(2) The appeal shall be decided by the Administrative Division of the High Court.

(3) An appeal under this section shall be made in accordance with the High Court Rules except to any extent that those rules are inconsistent with sections 300 to 307.

300. Notice of appeal—(1) An appellant shall file a notice of appeal within 15 working days after the date on which the appellant is notified of the Planning Tribunal’s decision or report and recommendation.

(2) The appeal shall be filed with the Registrar of the High Court at Wellington.

(3) Within the time specified in subsection (1) the appellant shall serve a copy of the notice on the authority whose decision was the subject of the Planning Tribunal’s decision or report and recommendation.

(4) Before or within 5 working days after the appeal is filed the appellant shall serve a copy of the notice on—

(a) Every other party to the proceedings or any person who appeared before the Planning Tribunal; and

(b) The Registrar of the Planning Tribunal.

(5) The notice of appeal shall specify—
(a) The decision or report and recommendation, or part of the decision or report and recommendation, appealed against; and
(b) The error of law alleged by the appellant; and
(c) The question of law to be resolved; and
(d) The grounds of appeal with sufficient particularity for the Court and other parties to understand them.

(6) The Registrar of the Planning Tribunal shall send a copy of the whole of the decision appealed against to the Registrar of the High Court at Wellington as soon as reasonably practicable after receiving the notice of appeal.

301. Right to appear and be heard on appeal—(1) A party to any proceedings or any person who appeared before the Planning Tribunal, who wishes to appear on an appeal to the High Court shall give notice of intention to appear to—
(a) The appellant; and
(b) The Registrar of the High Court at Wellington; and
(c) The Registrar of the Tribunal; and
(d) When the decision or report and recommendation was made by the Tribunal after an appeal to it, the authority whose decision was appealed.

(2) The notice to appear under subsection (1) shall be served within 10 working days after the party was served with the notice of appeal.

302. Parties to the appeal before the High Court—
(1) The parties to an appeal before the High Court are the appellant and any person who gives notice of intention to appear under section 301.

(2) The Registrar of the High Court shall ensure that the parties to an appeal before the High Court are served with—
(a) Every document which is filed or lodged with the Registrar of the High Court at Wellington which relates to the appeal; and
(b) Notice of the date set down for hearing the appeal.

303. Orders of the High Court—(1) The High Court may, on application to it or on its own motion, make an order directing the Planning Tribunal to lodge with the Registrar of the High Court at Wellington any or all of the following things:
(a) Anything in the possession of the Tribunal:
(b) A report recording, in respect of any matter or issue the Court may specify, any of the findings of fact of the
Tribunal which are not set out in its decision or report and recommendation:

(c) A report setting out, so far as is reasonably practicable and in respect of any issue or matter the order may specify, any reasons or considerations to which the Tribunal had regard but which are not set out in its decision or report and recommendation.

(2) An application under subsection (1) shall be made—

(a) In the case of the appellant, within 20 working days after the date on which the notice of appeal is lodged; or

(b) In the case of any other party to the appeal, within 20 working days after the date of the service on him or her of a copy of the notice of appeal.

(3) The High Court may make an order under subsection (1) only if it is satisfied that a proper determination of a point of law so requires; and the order may be made subject to such conditions as the High Court thinks fit.

304. Dismissal of appeal—The High Court may dismiss an appeal if—

(a) The appellant does not appear at the hearing of the appeal; or

(b) The appellant does not proceed with the appeal with due diligence and another party applies to the Court to dismiss the appeal.

305. Additional appeals on points of law—(1) When a party to an appeal other than the appellant wishes to contend that the decision or report and recommendation of the Planning Tribunal is in error on other points of law, that party may lodge a notice to that effect with the Registrar of the High Court at Wellington.

(2) The notice under subsection (1) shall be lodged within 20 working days of the date on which the respondent is served with a copy of the notice of appeal.

(3) Sections 299, 300 (3) and (4), 303, and 304 apply to a notice lodged under subsection (1) with all necessary modifications.

306. Extension of time—On the application of a party to an appeal, the High Court may extend any period of time stated in sections 299 to 301, 303, and 305.

307. Date of hearing—When a party to an appeal notifies the Registrar of the High Court at Wellington—
(a) That the notice of appeal has been served on all parties to the proceedings; and
(b) Either—
   (i) That no application has been lodged under section 303; or
   (ii) That any application lodged under section 303 has been complied with—
the appeal is ready for hearing and the Registrar shall arrange a hearing date as soon as practicable.

308. Appeals to the Court of Appeal—Section 144 of the Summary Proceedings Act 1957 applies in respect of a decision of the High Court under section 299 of this Act as if the decision has been made under section 107 of the Summary Proceedings Act 1957.

PART XII
DECLARATIONS, ENFORCEMENT, AND ANCILLARY POWERS

309. Proceedings to be heard by a Planning Judge—
(1) All proceedings under sections 310 to 319, and 321 to 325 (which relate to declarations, enforcement orders, and abatement notices) shall be heard by a Planning Judge sitting alone or by the Planning Tribunal.
(2) Proceedings under section 320 (which relates to interim enforcement orders) shall be heard either by a Planning Judge sitting alone or—
   (a) In the District Court; and
   (b) Except where otherwise directed by the Chief District Court Judge, by a District Court Judge who is a Planning Judge.
(3) All proceedings under section 338 (which relates to offences) shall be heard—
   (a) In the District Court; and
   (b) Except where otherwise directed by the Chief District Court Judge, by a District Court Judge who is also a Planning Judge.

Declarations

310. Scope and effect of declaration—A declaration may declare—
(a) The existence or extent of any function, power, right, or duty under this Act, including (but, except as expressly provided, without limitation)—
(i) Any duty imposed by section 32 (other than any duty in relation to a plan or proposed plan or any provision of a plan or proposed plan); and
(ii) Any duty imposed by section 55.

(b) Whether or not there is or is likely to be (contrary to any of sections 62 (2), 67 (2), and 75 (2)) an inconsistency between—
(i) Any provision or proposed provision of a policy statement or plan; and
(ii) Any provision or proposed provision of a policy statement (whether national or regional) or plan or water conservation order; or

(c) Whether or not an act or omission, or a proposed act or omission, contravenes or is likely to contravene this Act or a rule in a plan or proposed plan, a requirement for a designation or for a heritage order, or a resource consent; or

(d) Whether or not an act or omission, or a proposed act or omission, is a permitted activity, controlled activity, discretionary activity, non-complying activity, or prohibited activity, or breaches section 10 (certain activities protected) or section 20 (certain existing lawful activities allowed); or

(e) The point at which the landward boundary of the coastal marine area crosses any river.

311. Application for declaration—(1) Subject to subsections (2) and (3), any person may at any time apply to the Planning Tribunal in the prescribed form for a declaration.

(2) No person (other than the consent authority or the Minister) may apply to the Planning Tribunal for a declaration that a consent holder or any other person is contravening any condition of a resource consent or a rule in a plan or proposed plan that requires the holder to adopt the best practicable option to avoid or minimise any adverse effect of the discharge to which the consent or rule relates.

(3) No person (other than a local authority, consent authority, or the Minister) may apply to the Planning Tribunal for a declaration under section 310 (e).

312. Notification of application—(1) The applicant for a declaration shall serve notice of the application in the prescribed form on every person directly affected by the application.
(2) Every notice required to be served under this section shall be served within 5 working days after the application is made to the Tribunal.

§18. Decision on application—After hearing the applicant, and any person served with notice of the application who wishes to be heard, the Tribunal may—
(a) Make the declaration sought by an application under section 311, with or without modification; or
(b) Make any other declaration that it considers necessary or desirable; or
(c) Decline to make a declaration.

Enforcement Orders
§14. Scope of enforcement order—(1) An enforcement order is an order made under section 319 by the Planning Tribunal that may do any one or more of the following:
(a) Require a person to cease, or prohibit a person from commencing, anything done or to be done by or on behalf of that person, that, in the opinion of the Tribunal,—
   (i) Contravenes or is likely to contravene this Act, any regulations, a rule in a plan, a requirement for a designation or for a heritage order, or a resource consent, section 10 (certain existing uses protected), or section 20 (certain existing lawful activities allowed); or
   (ii) Is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment:
(b) Require a person to do something that, in the opinion of the Tribunal, is necessary in order to—
   (i) Ensure compliance by or on behalf of that person with this Act, any regulations, a rule in a plan, a requirement for a designation or for a heritage order, or a resource consent; or
   (ii) Avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by or on behalf of that person:
(c) Require a person to remedy or mitigate any adverse effect on the environment caused by or on behalf of that person:
(d) Require a person to pay money to or reimburse any other person for any actual or reasonable costs and
expenses which that other person has incurred or is likely to incur in avoiding, remedying, or mitigating any adverse effect caused by or on behalf of the person against whom the order is sought, where that person fails to comply with—

(i) An order under any other paragraph of this subsection; or

(ii) An abatement notice; or

(iii) A rule in a plan or a resource consent; or

(iv) Any of that person’s other obligations under this Act:

(c) Change or cancel a resource consent if, in the opinion of the Tribunal, the information made available to the consent authority by the applicant contained inaccuracies relevant to the enforcement order sought which materially influenced the decision to grant the consent:

(f) Where the Tribunal determines that any one or more of the requirements of the First Schedule have not been observed in respect of a policy statement or a plan, do any one or more of the following:

(i) Grant a dispensation from the need to comply with those requirements:

(ii) Direct compliance with any of those requirements:

(iii) Suspend the whole or any part of the policy statement or plan from a particular date (which may be on or after the date of the order, but no such suspension shall affect any Court order made before the date of the suspension order).

(2) Where a person is under a duty not to contravene a rule in a proposed plan under sections 9, 12 (3), 14 (2), or 15 (2), an enforcement order may be sought to—

(a) Require a person to cease anything, or prohibit a person from commencing anything, done or to be done by or on behalf of that person, that, in the opinion of the Tribunal, contravenes or is likely to contravene a rule in a proposed plan; or

(b) Require a person to do something that, in the opinion of the Tribunal, is necessary in order to ensure compliance by or on behalf of that person with a rule in a proposed plan; or

(c) Require a person to pay money to or reimburse any other person for any actual or reasonable costs and expenses which that other person has incurred or is
likely to incur in avoiding, remedying, or mitigating any adverse effect caused by or on behalf of the person against whom the order is sought, where that person fails to comply with a rule in a proposed plan.

(3) Except as provided in section 319 (2), an enforcement order may be made on such terms and conditions as the Planning Tribunal thinks fit (including the payment of any administrative charge under section 36, the provision of security, or the entry into a bond for performance).

(4) Without limiting the provisions of subsections (1) to (3), an order may require the restoration of any natural and physical resource to the state it was in before the adverse effect occurred (including the planting or replanting of any tree or other vegetation).

(5) An enforcement order shall, if the Tribunal so states, apply to the personal representatives, successors, and assigns of a person to the same extent as it applies to that person.

315. Compliance with enforcement order—(1) A person against whom an enforcement order is made shall—

(a) Comply with the order; and

(b) Unless the order directs otherwise, pay all the costs and expenses of complying with the order.

(2) If a person against whom an enforcement order is made fails to comply with the order, any person may, with the consent of the Planning Tribunal,—

(a) Comply with the order on behalf of the person who fails to comply with the order, and for this purpose, enter upon any land or enter any structure (with a constable if the structure is a dwellinghouse); and

(b) Sell or otherwise dispose of any structure or materials salvaged in complying with the order; and

(c) After allowing for any moneys received under paragraph (b), if any, recover the costs and expenses of doing so as a debt due from that person.

(3) Any costs or expenses which remain unpaid under subsection (2) (c) may be registered under the Statutory Land Charges Registration Act 1928 as a charge on any land in respect of which an enforcement order is made.

(4) Failure to comply with an enforcement order is an offence under section 338.

316. Application for enforcement order—(1) Any person may at any time apply to the Planning Tribunal in the
prescribed form for an enforcement order of a kind specified in paragraphs (a) to (d) of section 314 (1), or in section 314 (2).

(2) A local authority or consent authority may at any time apply to the Planning Tribunal in the prescribed form for an enforcement order of the kind specified in paragraph (e) of section 314 (1).

(3) An application for an enforcement order under section 314 (1) (f) may be lodged—

(a) By a local authority (or the Minister of Conservation in regard to a regional coastal plan) at any time; or

(b) By any other person, no later than 3 months after the date on which the policy statement or plan becomes operative.

(4) Any person who applies for an enforcement order under any provision of this section may request that the enforcement order be made on any terms and conditions permitted by section 314 (3) or section 314 (4).

(5) No person (other than the consent authority or the Minister) may apply to the Planning Tribunal for an enforcement order to enforce any condition of a resource consent or a rule in a plan or proposed plan that requires the holder to adopt the best practicable option to avoid or minimise any adverse effect of the discharge to which the consent or rule relates.

817. Notification of application—(1) Except as provided in section 320 (which relates to interim enforcement orders), where an application for an enforcement order is made, the applicant shall serve notice of the application in the prescribed form on every person directly affected by the application.

(2) Every notice required to be served under this section shall be served within 5 working days after the application is made to the Planning Tribunal.

818. Right to be heard—Except as provided in section 320 (which relates to interim enforcement orders), before deciding an application for an enforcement order, the Planning Tribunal shall—

(a) Hear the applicant; and

(b) Hear any person against whom the order is sought who wishes to be heard.

819. Decision on application—(1) After considering an application for an enforcement order, the Planning Tribunal may—
(a) Except as provided in subsection (2), make any appropriate order under section 314; or
(b) Refuse the application.

(2) The Planning Tribunal shall not make an enforcement order under paragraphs (a)(ii) or (b)(ii) of section 314(1) against a person who is acting in accordance with—
(a) A rule in a plan; or
(b) A rule in a proposed plan to which section 19 applies (changes to plans which will allow activities); or
(c) A resource consent,—
if the adverse effects in respect of which the order is sought were expressly recognised by the person that approved the plan, or notified the proposed plan, or granted the resource consent, at the time of approval, notification, or granting unless, having regard to the time which has elapsed and any change in circumstances since the approval of the plan, the notification of the proposed plan, or the granting of the consent, the Planning Tribunal considers that it is appropriate to do so.

320. Interim enforcement order—(1) Except as provided in this section, the provisions of sections 314 to 319 apply to the application for, and determination of, an interim enforcement order.

(2) If the Planning Tribunal or a District Court considers it necessary to do so, it may make an interim enforcement order—
(a) Without requiring service of notice in accordance with section 317; and
(b) Without holding a hearing.

(3) Before making an interim enforcement order the Planning Tribunal or District Court shall consider—
(a) What the effect of not making the order would be on the environment; and
(b) Whether the applicant has given an appropriate undertaking as to damages; and
(c) Whether it should hear the applicant or any person against whom the interim order is sought; and
(d) Such other matters as the Tribunal or District Court thinks fit.

(4) The Planning Tribunal or District Court shall direct the applicant or another person to serve a copy of an interim enforcement order on the person against whom the order is made.
(5) The Planning Tribunal or District Court shall give a person against whom an interim enforcement order has been made and who was not heard by the Tribunal or Court before the order was made, the opportunity to be heard by the Tribunal or Court—
(a) In support of an application to change or cancel the order; and
(b) Within 5 days of the service of the order on the person, or at any later time if the person so agrees—and the Tribunal or Court may confirm, change, or cancel the interim enforcement order at any time.

(6) An interim enforcement order stays in force until an application for an enforcement order under section 316 is determined or until it is cancelled by the Planning Tribunal or District Court under subsection (5) or section 321.

321. Change or cancellation of enforcement order—
(1) Without limiting section 320 (5), any person directly affected by an enforcement order may at any time apply to the Planning Tribunal in the prescribed form to change or cancel the order.

(2) Sections 317 to 319 (which relate to notification, hearing, and decision) apply to every application under subsection (1) as if it were an application for an enforcement order.

Abatement Notices

322. Scope of abatement notice—(1) An abatement notice may be served on any person by an enforcement officer—
(a) Requiring that person to cease, or prohibiting that person from commencing, anything done or to be done by or on behalf of that person that, in the opinion of the enforcement officer,—
(i) Contravenes or is likely to contravene this Act, any regulations, a rule in a plan, or a resource consent; or
(ii) Is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment:
(b) Requiring that person to do something that, in the opinion of the enforcement officer, is necessary in order to—
(i) Ensure compliance by or on behalf of that person with this Act, any regulations, a rule in a plan, or a resource consent; or
(ii) Avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by or on behalf of that person; or

(iii) Avoid, remedy, or mitigate any actual or likely adverse effect on the environment relating to any land of which the person is owner or occupier:

(c) Requiring that person, being—

(i) An occupier of any land; or

(ii) A person carrying out any activity in, on, under, or over a water body or the water covering the coastal marine area,—

who is contravening section 16 (which relates to unreasonable noise) to adopt the best practicable option of ensuring that the emission of noise from that land or water does not exceed a reasonable level.

(2) Where any person is under a duty not to contravene a rule in a proposed plan under sections 9, 12 (3), 14 (2), or 15 (2), an abatement notice may be issued to require a person—

(a) To cease, or prohibit that person from commencing, anything done or to be done by or on behalf of that person that, in the opinion of the enforcement officer, contravenes or is likely to contravene a rule in a proposed plan; or

(b) To do something that, in the opinion of the enforcement officer, is necessary in order to ensure compliance by or on behalf of that person with a rule in a proposed plan.

(3) An abatement notice may be made subject to such conditions as the enforcement officer serving it thinks fit.

(4) An abatement notice shall not be served unless the enforcement officer has reasonable grounds for believing that any of the circumstances in subsection (1) or subsection (2) exist.

323. Compliance with abatement notice—(1) Subject to the rights of appeal in section 325, a person on whom an abatement notice is served shall—

(a) Comply with the notice within the period specified in the notice; and

(b) Unless the notice directs otherwise, pay all the costs and expenses of complying with the notice.

(2) If a person against whom an abatement notice is made under section 322 (1) (c) (which relates to the emission of noise), fails to comply with the notice, an enforcement officer may,
without further notice, enter the place where the noise source is situated (with a constable if the place is a dwellinghouse), and—

(a) Take all such reasonable steps as he or she considers necessary to cause the noise to be reduced to a reasonable level; and

(b) When accompanied by a constable, seize and impound the noise source.

324. Form and content of abatement notice—Every abatement notice shall be in the prescribed form and shall state—

(a) The name of the person to whom it is addressed; and

(b) The reasons for the notice; and

(c) The action required to be taken or ceased or not undertaken; and

(d) The period within which the action shall be taken or cease, which cannot be less than 7 days from the date on which the notice is served; and

(e) The consequences of not complying with the notice or lodging a notice of appeal; and

(f) The rights of appeal under section 325 and the last day on which a notice of appeal can be lodged; and

(g) In the case of a notice under section 322 (1) (c), the rights of the local authority under section 323 (2) on failure of the recipient to comply with the notice within the time specified in the notice; and

(h) The name and address of the local authority or consent authority whose enforcement officer issued the notice.

325. Appeals—(1) Any person on whom an abatement notice is served may appeal to the Planning Tribunal in accordance with subsection (2) against the whole or any part of the notice.

(2) Notice of an appeal under subsection (1) shall be in the prescribed form and shall—

(a) State the reasons for the appeal and the relief sought; and

(b) State any matters required by regulations; and

(c) Be lodged with the Planning Tribunal and served on the local authority or consent authority whose decision is appealed within 7 days of service of the abatement notice on the appellant.

(3) Lodgment of a notice of appeal under subsection (2) acts as a stay of the abatement notice pending the Tribunal’s decision of the appeal.
Section 289 (reply to appeal) does not apply in respect of any appeal lodged under this section.

**Excessive Noise**

326. Meaning of "excessive noise"—(1) In this Act, the term "excessive noise" means any noise that is under human control and of such a nature as to unreasonably interfere with the peace, comfort, and convenience of any person (other than a person in or at the place from which the noise is being emitted), but does not include any noise emitted by any—

(a) Aircraft being operated during, or immediately before or after, flight; or

(b) Vehicle being driven on a road (within the meaning of section 2(1) of the Transport Act 1962); or

(c) Train, other than at a railway station or in railway yards.

(2) Without limiting subsection (1), the term "excessive noise" may include any noise emitted by any—

(a) Musical instrument; or

(b) Electrical appliance; or

(c) Machine, however powered; or

(d) Person or group of persons; or

(e) Explosion or vibration.

327. Issue and effect of excessive noise direction—

(1) Any enforcement officer, or any constable acting upon the request of an enforcement officer, who—

(a) Has received a complaint that excessive noise is being emitted from any place; and

(b) Upon investigation of the complaint, is of the opinion that the noise is excessive,—

may direct the occupier of the place from which the sound is being emitted, or any other person who appears to be responsible for causing the excessive noise, to immediately reduce the noise to a reasonable level.

(2) A direction under subsection (1) may be given in writing or orally.

(3) Every direction under subsection (1) shall prohibit the person to whom it is given, and every other person bound by the direction, from causing or contributing to the emission of excessive noise from or within the vicinity of the place at any time during the period of 72 hours or such shorter period as the enforcement officer or constable specifies, commencing at the time the direction is given.

(4) The powers under this section are in addition to the powers under sections 322 to 325 to issue abatement notices.
relating to unreasonable noise and to seek an enforcement order under section 316.

**328. Compliance with an excessive noise direction**—
(1) Every person who is given a direction under section 327 shall immediately comply with the direction.
(2) Every person who knows or ought to know that a direction under section 327 has been given in respect of a particular place shall comply with that direction as if he or she were the recipient of it, while on or in the vicinity of that place.
(3) If a person against whom an excessive noise direction is made fails to comply immediately with the notice, an enforcement officer (accompanied by a constable), or a constable may enter the place without further notice and—
(a) Seize and remove from the place; or
(b) Render inoperable by the removal of any part from; or
(c) Lock or seal so as to make unusable—any instrument, appliance, vehicle, aircraft, train, or machine that is producing or contributing to the excessive noise.
(4) Any enforcement officer or constable exercising any power under subsection (3) may use such assistance as is reasonably necessary.

**Water Shortage**

**329. Water shortage direction**—(1) Where a regional council considers that at any time there is a serious temporary shortage of water in its region or any part of its region, the regional council may issue a direction for either or both of the following:
(a) That the taking, use, damming, or diversion of water:
(b) That the discharge of any contaminant into water,—is to be apportioned, restricted, or suspended to the extent and in the manner set out in the direction.
(2) A direction may relate to any specified water, to water in any specified area, or to water in any specified water body.
(3) A direction may not last for more than 14 days but may be amended, revoked, or renewed by the regional council by a subsequent direction.
(4) A direction comes into force on its issue and continues in force until it expires or is revoked.
(5) A direction may be issued by any means the regional council thinks appropriate, but notice of the particulars of the direction shall be given to all persons required to apportion, restrict, or suspend—
(a) The taking, use, damming, or diversion of water; or
(b) The discharge of any contaminant into water,— as far as they can be ascertained, as soon as practicable after its issue.

(6) For the purpose of this section, notice may be given to a person by serving it on the person or by publishing the notice in one or more daily newspapers circulating in the area where the person takes, uses, dams, or diverts the water, or discharges a contaminant into water.

**Emergency Works**

**330. Emergency works and power to take preventive or remedial action**—(1) Where—

(a) Any public work for which any person has financial responsibility; or

(b) Any natural and physical resource or area for which a local authority or consent authority has jurisdiction under this Act; or

(c) Any project or work for which any network utility operator is approved as a requiring authority under section 167—

is, in the opinion of the person or the authority or the network utility operator, affected by or likely to be affected by—

(d) An adverse effect on the environment which requires immediate preventive measures; or

(e) An adverse effect on the environment which requires immediate remedial measures; or

(f) Any sudden emergency causing or likely to cause loss of life, injury, or serious damage to property—

the provisions of sections 9, 12, 13, 14, and 15 shall not apply to any activity undertaken by or on behalf of that person, authority, or network utility operator to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.

(2) Where a local authority or consent authority—

(a) Has financial responsibility for any public work; or

(b) Has jurisdiction under this Act in respect of any natural and physical resource or area—

which is, in the reasonable opinion of that local authority or consent authority, likely to be affected by any of the conditions described in paragraphs (d) to (f) of subsection (1), the local authority or consent authority by its employees or agents may, without prior notice, enter any place (including a dwelling-house when accompanied by a constable) and may take such action, or direct the occupier to take such action, as is
immediately necessary and sufficient to remove the cause of, or mitigate any actual or likely adverse effect of, the emergency.

(3) As soon as practicable after entering any place under this section, every person must identify himself or herself and inform the occupier of the place of the entry and the reasons for it.

331. Reimbursement or compensation for emergency works—(1) Where the local authority or consent authority takes action under section 330 (2) because of the default of any person, the authority may seek an enforcement order under section 314 (1) (d) for reimbursement from that person of its actual or reasonable costs.

(2) Every—

(a) Person having an estate or interest in land that is injuriously affected by the exercise of any power under section 330 (2); and

(b) Other person suffering any damage as a result of the exercise of that power—shall be entitled to compensation from the authority in respect of any damage which did not arise from any failure of that person to abide by his or her duties under the Act.

(3) Any compensation under subsection (2) shall be claimed and determined in accordance with Part V of the Public Work: Act 1981 and the provisions of that Act, so far as they apply and with all necessary modifications, shall apply accordingly.

Powers of Entry and Search

332. Power of entry for inspection—(1) Any enforcement officer, specifically authorised in writing by any local authority or consent authority to do so, may at all reasonable times go on, into, under, or over any place or structure, except a dwellinghouse, for the purpose of inspection to determine whether or not—

(a) This Act, any regulations, a rule of a plan, a resource consent, section 10 (certain existing uses protected), or section 20 (certain lawful existing activities allowed) is being complied with; or

(b) An enforcement order, interim enforcement order, abatement notice, or water shortage direction is being complied with; or

(c) Any person is contravening a rule in a proposed plan in a manner prohibited by any of sections 9, 12 (3), 14 (2), or 15 (2).
For the purposes of subsection (1), an enforcement officer may take samples of water, air, soil, or vegetation.

(3) Every enforcement officer who exercises any power of entry under this section shall produce for inspection his or her warrant of appointment and written authorisation upon initial entry and in response to any later reasonable request.

(4) If the owner or occupier of a place subject to inspection is not present at the time of the inspection, the enforcement officer shall leave in a prominent position at the place or attached to the structure, a written notice showing the date and time of the inspection and the name of the officer carrying out the inspection.

(5) An enforcement officer may not enter, unless the permission of the landowner is obtained, any land which any other Act states may not be entered without that permission.

(6) Any enforcement officer exercising any power under this section may use such assistance as is reasonably necessary.

**333. Power of entry for survey**—(1) For any purpose connected with the preparation, change, or review of a policy statement or plan, any enforcement officer specifically authorised in writing by any local authority or consent authority to do so, may do all or any of the following:

(a) Carry out surveys, investigations, tests, or measurements:
(b) Take samples of any water, air, soil, or vegetation:
(c) Enter or re-enter land (except a dwellinghouse), at any reasonable time, with or without such assistance, vehicles, appliances, machinery, and equipment as is reasonably necessary for that purpose.

(2) Reasonable written notice shall be given to the occupier of land to be entered under subsection (1)—

(a) That entry on to the land is authorised under this section:
(b) Of the purpose for which entry is required:
(c) How and when entry is to be made.

(3) Every enforcement officer who exercises any power of entry under this section shall produce for inspection his or her warrant of appointment and written authorisation upon initial entry and in response to any later reasonable request.

**334. Application for warrant for entry for search**—(1) Any District Court Judge or any duly authorised Justice or Registrar who, on an application in writing made on oath, is satisfied that there is reasonable ground for believing that there is in, on, under, or over any place or vehicle anything—
(a) In respect of which an offence has been or is suspected of having been committed against this Act or regulations that is punishable by imprisonment; or

(b) Which there is reasonable grounds to believe will be evidence of an offence against this Act or regulations that is punishable by imprisonment; or

(c) Anything which there is reasonable ground to believe is intended to be used for the purpose of committing an offence against this Act or regulations that is punishable by imprisonment—may issue a warrant authorising the entry and search of any place or vehicle on one occasion within 14 days of the date of issue of the warrant and at any time which is reasonable in the circumstances.

(2) Any warrant issued under subsection (1) shall be subject to such conditions as the issuer may specify in the warrant.

(3) Any person applying for a warrant under subsection (1) shall, having made reasonable enquiries, disclose on the application—

(a) Details of every other application which that person knows to have been made within the previous 20 days in respect of the place or vehicle specified; and

(b) The offence or offences alleged in every such application; and

(c) The result of every such application.

335. Content and effect of warrant for entry for search—(1) Every warrant under section 334 shall be directed to and executed by—

(a) Any specified constable; or

(b) Any specified enforcement officer when accompanied by a constable; or

(c) Generally, every constable; or

(d) Generally, every enforcement officer when accompanied by a constable.

(2) Every warrant under section 334 shall authorise the person executing the warrant to—

(a) Use such assistance as is necessary in the circumstances; and

(b) Use such force both for making entry and for breaking open anything in, on, under, or over the place or vehicle as is reasonable in the circumstances; and

(c) Search for and seize anything referred to in the warrant and, while at the place pursuant to the warrant, to seize any other thing that the person believes on
reasonable grounds to be evidence in respect of which that person could have obtained a warrant under this section.

(3) Every person called upon to assist in the execution of the warrant shall have the powers contained in subsection (2) (b) and (c).

(4) It shall be the duty of every person executing any warrant to—

(a) Produce it for inspection upon initial entry and in response to any later reasonable request and, when requested, to provide a copy of the warrant no later than 7 days after the making of the request; or

(b) If the owner or occupier is not present at the time of the entry and search, leave in a prominent position at the place or attached to the vehicle subject to the warrant, a written notice showing the date and time of the execution of the warrant, the name of the person in charge of the entry and search, and the address of the office where inquiries can be made; and

(c) If the owner or occupier is not present at the time of the entry and search, inform the owner or occupier within 7 days, by written notice delivered, left in a prominent position, or sent by registered mail, of—

(i) Anything seized upon execution of the warrant; and

(ii) From where it was seized; and

(iii) Where it is held,—

unless a District Court Judge orders otherwise because of exceptional circumstances.

(5) If the person executing the warrant believes leaving a notice as required under subsection (4) (b) would unduly prejudice subsequent investigations, that person may refrain from leaving a notice and apply to a District Court Judge within 7 days for confirmation of that decision. If such an application is refused, the person who executed the warrant shall notify or cause to be notified immediately the owner or occupier of the place or vehicle subject to the warrant of the particulars referred to in subsection (4).

Return of Property

336. Return of property seized under sections 323 and 328—(1) Where any property is seized and impounded under section 323 or section 328 (which relate to failure to comply with an abatement notice to reduce noise or an excessive noise
direction), the owner of the property or person from whom it was seized may apply to the local authority, consent authority, or police station where the property is held, at any time, to have the property returned to him or her.

(2) Where an application is made under subsection (1), the local authority, consent authority, or police officer with authority to do so, shall arrange for the return of the property if—

(a) Satisfied that the return of the property is not likely to lead to a resumption of the emission of noise beyond a reasonable level; and

(b) The applicant has paid all costs incurred by the local authority, consent authority, or police in seizing, impounding, transporting, and storing the property.

(3) Where the local authority, consent authority, or police officer with authority to do so, refuses to return the property for the reason specified in subsection (2) (a), the applicant may make an application to the Planning Tribunal, and subsections (2) and (4) of section 325 apply as if—

(a) The references to service of the abatement notice on the appellant were references to any refusal under this section; and

(b) The time limit for lodging the application were 6 months from the date of seizure.

(4) The Planning Tribunal on an application under subsection (3) may—

(a) Order the return of the property subject to any conditions relating to the continued reduction of noise as it thinks fit; or

(b) Refuse the application for the return of the property.

(5) Where—

(a) Any property seized under section 323 or section 328 is not claimed within 6 months of its seizure; or

(b) The return of the property has been refused under subsection (3) and no application has been lodged within 6 months of the date of seizure; or

(c) The Planning Tribunal has refused the return of the property under subsection (4) (b),— the local authority, consent authority, or the police may dispose of the property in accordance with subsection (6).

(6) Any local authority, consent authority, or police officer wishing to dispose of property under subsection (5)—

(a) Shall give written notice to the person from whom the property was seized, where the person's address is known; and
(b) May sell or cause the property to be otherwise disposed of; and

(c) May, where any proceeds are realised, apply these to the payment of costs and expenses incurred in selling the property under this section and any costs incurred in seizing, impounding, transporting, and storing the property; and

(d) Shall, on demand, pay the remainder of the proceeds to the person from whom the property was seized.

337. Return of property seized under warrant—
(1) Where anything is seized under a warrant issued under section 334, it shall be detained under the custody of a constable, except while it is being used in evidence or is in the custody of any Court, until it is disposed of under this section.

(2) In any proceedings for an offence relating to anything seized under a warrant issued under section 334, the Court may order, either at the hearing or on application, that the thing be delivered to the person appearing to the Court to be entitled to it, or that it be otherwise disposed of in such manner as the Court thinks fit.

(3) Any constable may at any time, unless an order has been made under subsection (2), return the thing to the person from whom it was seized, or apply to a District Court Judge for an order as to its disposal. On any such application, the District Court Judge may make any order that a Court may make under subsection (2).

(4) If proceedings for an offence relating to the thing are not brought within a period of 3 months of seizure, any person claiming to be entitled to the thing may, after the expiration of that period, apply to a District Court Judge for an order that it be delivered to him or her.

(5) Where any person is convicted in any proceedings for an offence relating to anything in respect of which a warrant has been issued enabling seizure, and any order is made under this section, the operation of the order shall be suspended until—

(a) The expiration of the time prescribed by this Act for the filing of notice of appeal; and

(b) Where notice of appeal is filed within the prescribed time, until the determination of the appeal.

(6) Where the operation of any such order is suspended until the determination of the appeal, the Court determining the appeal may by order, cancel or vary the order.
Offences

388. Offences against this Act—(1) Every person commits an offence against this Act who contravenes, or permits a contravention of, any of the following:
   (a) Sections 9, 11, 12, 13, 14, and 15 (which impose duties and restrictions in relation to land, subdivision, the coastal marine area, the beds of certain rivers and lakes, water, and discharges of contaminants):
   (b) Any enforcement order:
   (c) Any abatement notice, other than a notice under section 322 (1) (c):
   (d) Any water shortage direction under section 329.
(2) Every person commits an offence against this Act who contravenes, or permits a contravention of, any of the following:
   (a) Section 22, which relates to failure to provide certain information to an enforcement officer:
   (b) Section 42, which relates to the protection of sensitive information:
   (c) Any excessive noise direction under section 327:
   (d) Any abatement notice for unreasonable noise under section 322 (1) (c):
   (e) Any order (other than an enforcement order) made by the Planning Tribunal.
(3) Every person commits an offence against this Act who—
   (a) Wilfully obstructs, hinders, resists, or deceives any person in the execution of any powers conferred on that person by or under this Act:
   (b) Contravenes, or permits a contravention of, any of the following:
      (i) Section 283, which relates to non-attendance or refusal to co-operate with the Planning Tribunal:
      (ii) Any summons or order to give evidence issued or made pursuant to section 41.
(4) Notwithstanding anything in the Summary Proceedings Act 1957, any information in respect of any offence against subsection (1) of this section may be laid by any person at any time within 6 months after the time when the contravention giving rise to the information first became known, or should have become known, to the local authority or consent authority.

389. Penalties—(1) Every person who commits an offence against section 388 (1) is liable on summary conviction to imprisonment for a term not exceeding 2 years or a fine not
exceeding $200,000, and, if the offence is a continuing one, to a further fine not exceeding $10,000 for every day or part of a day during which the offence continues.

(2) Every person who commits an offence against section 338 (2) is liable on summary conviction to a fine not exceeding $10,000, and, if the offence is a continuing one, to a further fine not exceeding $1,000 for every day or part of a day during which the offence continues.

(3) Every person who commits an offence against section 338 (3) is liable on summary conviction to a fine not exceeding $1,500.

(4) Notwithstanding anything in section 29 of the Criminal Justice Act 1985, a Court may sentence any person who commits an offence against this Act to a sentence of community service (whether that offence is punishable by imprisonment or not) and the provisions of Part III of that Act, with all necessary modifications, apply accordingly.

(5) Where a person is convicted of an offence against section 338, the Court may, instead of or in addition to imposing a fine or a term of imprisonment, make any or all of the orders specified in section 314.

(6) The continued existence of anything, or the intermittent repetition of any actions, contrary to any provision of this Act shall be deemed to be a continuing offence.

340. Liability of principal for acts of agents—(1) Where an offence is committed against this Act by any person acting as the agent or employee of another person, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under this Act in the same manner and to the same extent as if he, she, or it had personally committed the offence.

(2) Notwithstanding anything in subsection (1), where any proceedings are brought by virtue of that subsection, it shall be a good defence if the defendant proves—

(a) In the case of a natural person (including a partner in a firm) that—

(i) He or she did not know nor could reasonably be expected to have known that the offence was to be or was being committed; or

(ii) He or she took all reasonable steps to prevent the commission of the offence:

(b) In the case of a body corporate that—

(i) Neither the directors nor any person involved in the management of the body corporate knew or
could reasonably be expected to have known that the offence was to be or was being committed; or
(ii) The body corporate took all reasonable steps to prevent the commission of the offence; and
(c) In all cases, that the defendant took all reasonable steps to remedy any effects of the act or omission giving rise to the offence.

(3) Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate shall be guilty of the like offence if it is proved—
(a) That the act that constituted the offence took place with his or her authority, permission, or consent; and
(b) That he or she knew or could reasonably be expected to have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

341. Strict liability and defences—(1) In any prosecution for an offence of contravening or permitting a contravention of any of sections 9, 11, 12, 13, 14, and 15, it is not necessary to prove that the defendant intended to commit the offence.

(2) Subject to subsection (3), it is a defence to prosecution of the kind referred to in subsection (1), if the defendant proves—
(a) That—
(i) The action or event to which the prosecution relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property or avoiding an actual or likely adverse effect on the environment; and
(ii) The conduct of the defendant was reasonable in the circumstances; and
(iii) The effects of the action or event were adequately mitigated or remedied by the defendant after it occurred; or
(b) That the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case either—
(i) The action or event could not reasonably have been foreseen or been provided against by the defendant; and
(ii) The effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.
(3) Except with the leave of the Court, subsection (2) does not apply unless, within 7 days after the service of the summons or within such further time as the Court may allow, the defendant delivers to the prosecutor a written notice—
(a) Stating that he or she intends to rely on subsection (2); and
(b) Specifying the facts that support his or her reliance on subsection (2).

342. Fines to be paid to local authority instituting prosecution—(1) Subject to subsection (2), where a person is convicted of an offence under section 338 and the Court imposes a fine, the Court shall, if the information for that offence was laid on behalf of a local authority, order that the fine be paid to that local authority.

(2) There shall be deducted from every amount payable to a local authority under subsection (1), a sum equal to 10 percent thereof, and this sum shall be credited to the Crown Bank Account.

(3) Notwithstanding anything in subsection (2), where any money awarded by a Court in respect of any loss or damage is recovered as a fine, and that fine is ordered to be paid to a local authority under subsection (1), no deduction shall be made under subsection (2) in respect of that money.

(4) Subject to subsection (2), an order of the Court made under subsection (1) shall be sufficient authority for the Registrar receiving the fine to pay that fine to the local authority entitled to it under the order.

(5) Nothing in section 73 of the Public Finance Act 1989 shall apply to any fine ordered to be paid to any local authority under subsection (1).

343. Discharges from ships—The provisions of this Part shall not apply to any discharge of a contaminant into water from a ship that is not a New Zealand ship (as defined by section 2 of the Shipping and Seamen Act 1952).

PART XIII
HAZARDS CONTROL COMMISSION

344. Interpretation—In this Part, unless the context otherwise requires,—
“Commission” means the Hazards Control Commission established under this Part:
“Genetically modified organisms” means any organisms in which any of the genes or other genetic material—
(a) Has been modified by *in vitro* techniques; or
(b) Is inherited or otherwise derived, through any number of replications, from any genes or other genetic material which has been modified by *in vitro* techniques,—
and—
(c) Includes organisms prescribed by regulations as genetically modified organisms for the purposes of this Part, or organisms modified by means of techniques prescribed by regulations as techniques to which this paragraph applies:
(d) Does not include organisms prescribed by regulations as not being genetically modified organisms for the purposes of this Part, or organisms modified by means of techniques prescribed by regulations as techniques to which this paragraph applies:

"Hazardous substances" means any substances which may impair human, plant, or animal health or may adversely affect the health or safety of any person or the environment, and whether or not contained in or forming part of any other substance or thing; and—
(a) Includes substances prescribed by regulations as hazardous substances for the purpose of this Part; but
(b) Does not include substances prescribed by regulations as not being hazardous substances for the purposes of this Part:

"Import" means, in respect of organisms, to bring within the territorial limits of New Zealand from any place outside those limits:

"Member" means a member of the Commission:

"Minister" means the Minister for the Environment:

"New organisms" means—
(a) A species (or a subspecies, variety, strain or cultivar of a species) of an organism which has not previously been legally imported into New Zealand and is not native to New Zealand; or
(b) A genetically modified organism which has not previously been licensed by the Commission for general release in New Zealand; or
(c) An organism which has previously been present in New Zealand but which is no longer present; or
(d) An organism, further imports of which are prohibited; or
(e) An organism which is restricted to a defined area or location where it is confined, under security appropriate to the organism and to the perceived type of risk, to prevent escape:

“Organism” means any vertebrate or invertebrate animal, higher or lower plant, or microscopic organism, including viruses and viroids, and any part, copy or analogue thereof; and includes nucleic acids capable of genetically modifying living organisms and self-replicating forms of deoxyribonucleic acid (DNA) and ribonucleic acid (RNA); but does not include herbarium specimens or other dead organisms.

345. Purpose and principles—(1) The purpose of this Part is to establish a Hazards Control Commission to assist in the control of hazardous substances and new organisms.

(2) In carrying out its functions, the Hazards Control Commission shall balance the benefits which may be obtained from hazardous substances and new organisms against the risks and damage to the environment and to the health, safety and economic, social and cultural wellbeing of people and communities and, in so doing, shall have regard to Part II and such other matters as the Commission thinks fit.

(3) In carrying out its functions, the Hazards Control Commission has a duty to give effect to the special relationship between the Crown and te iwi Maori as embodied in the Treaty of Waitangi.

346. Establishment of Commission—(1) There is hereby established a Commission to be called the Hazards Control Commission.

(2) The Commission shall be a body corporate with perpetual succession and a common seal, and shall have and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

(3) The common seal of the Commission shall be judicially noticed in all Courts and for all purposes.

(4) The Commission shall be a Crown agency for the purposes of the Public Finance Act 1989, and, notwithstanding anything in section 1 (3) of that Act, Part V of that Act shall apply to the Commission as if that Part of that Act were in force at the commencement of this Part of this Act.
347. Functions of Commission—(1) The functions of the Commission are as follows:

(a) To advise on the content of regulations specifying national standards for, and controls on, hazardous substances and new organisms:

(b) To perform such functions as are given to it by any enactment in respect of hazardous substances or new organisms, including functions relating to licensing, monitoring, and enforcement in relation to any stage of the existence of hazardous substances or new organisms from their importation or manufacture to their treatment or disposal:

(c) To advise on the establishment of, and to operate, a national tracking system for hazardous substances likely to have significant adverse effects on the health or safety of any person or the environment:

(d) To promote increased public awareness on matters relating to hazardous substances and new organisms:

(e) To involve the public in decision making relating to hazardous substances and new organisms:

(f) To develop and maintain national registers on hazardous substances and new organisms:

(g) To perform any other functions conferred on it by or under this or any other enactment.

(2) The Commission shall have all such powers as may be conferred on it by this or any other Act, or as may be reasonably necessary or expedient to enable it to carry out its functions.

348. Membership of Commission—The Commission shall consist of no fewer than 3, nor more than 7, members who shall be appointed by the Governor-General on the recommendation of the Minister.

349. Compliance with policy directions—In the exercise of its functions, duties, and powers, the Commission shall have regard to the policy of the Government in relation to resource management and the control of hazardous substances and new organisms, and shall comply with any general directions relating to that policy given to it in writing signed by the Minister. As soon as practicable after any such direction is given, the Minister shall publish in the Gazette and lay before the House of Representatives a copy of that direction.
850. Further provisions applying in respect of Commission—The provisions set out in the Fifth Schedule shall apply in respect of the Commission.

851. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) Prescribing organisms that are or are not genetically modified organisms for the purposes of this Part:
(b) Prescribing substances that are or are not hazardous substances for the purposes of this Part:
(c) Prescribing techniques for the purposes of paragraphs (c) and (d) of the definition of the term “genetically modified organisms” in section 344:
(d) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Part and for its due administration.

PART XIV

MISCELLANEOUS PROVISIONS

852. Service of documents—(1) Where a notice or other document is to be served on a person for the purposes of this Act, it may be served—

(a) By delivering it personally to the person (other than a Minister of the Crown); or
(b) By delivering it at the usual or last known place of residence or business of the person, including by facsimile; or
(c) By sending it by pre-paid post addressed to the person at the usual or last known place of residence or business of the person; or
(d) By serving it in such other manner as the Planning Tribunal may, on application made to it, direct.

(2) Where a notice or other document is to be served on a Minister of the Crown for the purposes of this Act, service on the chief executive of the appropriate Department of the Public Service in accordance with subsection (1) shall be deemed to be service on the Minister.

(3) Where a notice or other document is to be served on a body (whether incorporated or not) for the purposes of this Act, service on an officer of the body, or on the registered office of the body, in accordance with subsection (1) shall be deemed to be service on the body.

(4) Where a notice or other document is to be served on a partnership for the purposes of this Act, service on any one of
the partners in accordance with subsections (1) and (3) shall be
deemed to be service on the partnership.

(5) Where a notice or other document is sent by post to a
person in accordance with subsection (1) (c), it shall be deemed,
in the absence of proof to the contrary, to be received by the
person at the time at which the letter would have been
delivered in the ordinary course of the post.

353. Notices and consents in relation to Maori land—
Where—

(a) A notice or other document is to be served on the owner
of land for the purposes of this Act; and

(b) The approval or consent of an owner of land is sought or
required for the purposes of this Act—
the notice, other document, or consent shall be deemed to have
been served or obtained, as the case may be, on or from all the
owners of Maori land if it has been served on or obtained from
such owner or owners as have been nominated for the purpose,
at the request of the person seeking to serve the notice or other
document or to obtain the approval or consent, by the
secretary of the appropriate iwi authority or, if that person is
unable or unwilling to so nominate, then by the Registrar of the
Maori Land Court.

354. Crown’s existing rights to resources to continue—
(1) Without limiting the Acts Interpretation Act 1924 but
subject to subsection (2), it is hereby declared that the repeal by
this Act or the Crown Minerals Act 1991 of any enactment,
including in particular—

(a) Section 3 of the Geothermal Energy Act 1953; and

(b) Section 21 of the Water and Soil Conservation Act 1967;
and

(c) Section 261 of the Coal Mines Act 1979,—
shall not affect any right, interest, or title, to any land or water
acquired, accrued, established by, or vested in, the Crown
before the date on which this Act comes into force, and every
such right, interest, and title shall continue after that date as if
those enactments had not been repealed.

(2) Any person may—

(a) Take, use, dam, divert, or discharge into any water; or

(b) Use any bed of a river or lake or any coastal marine
area—
to which the Crown has a right, interest, or title without
obtaining the consent of the Crown, if the taking, use,
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damming, diversion, or discharge by that person does not contravene this Act or regulations.

855. Vesting of reclaimed land—(1) Any person or local authority may apply to the Minister of Conservation for any right, title, or interest in any land in the coastal marine area which is land of the Crown and which has been reclaimed or is proposed to be reclaimed to be vested in that person.

(2) Any person may apply to the Minister of Lands for any right, title, or interest in any land—

(a) Which forms part of a riverbed or lakebed which is land of the Crown; and

(b) Which has been reclaimed or is proposed to be reclaimed—

to be vested in that person.

(3) The relevant Minister may, if he or she thinks fit, by notice in the Gazette, vest in the applicant any right, title, or interest in any area of reclaimed land which is land of the Crown after—

(a) Determining an appropriate price (if any) to be paid by the applicant in respect thereof; and

(b) Ensuring that the consent authority has issued a certificate under section 245 (5) (a) (ii) or (5) (b) (ii).

(4) Every Gazette notice published under subsection (3)—

(a) Shall state the name of the person or local authority in whom or which the right, title, or interest is vested, and accurately describe the position and extent of the reclaimed land; and

(b) Shall refer to any encumbrances or restrictions imposed on the applicant’s right, title, or interest in the land; and

(c) Shall be sent by the relevant Minister to the District Land Registrar, with a request that a certificate of title be issued accordingly; and

(d) Shall be registered, without fee, by the District Land Registrar as soon as practicable after receipt from the Minister.

(5) The District Land Registrar shall, in accordance with a request made under subsection (4) (c), issue an appropriate certificate of title in respect of the right, title, or interest in the land vested by the Gazette notice.

856. Matters may be determined by arbitration—

(1) Except as provided in subsection (2), where—
(a) Any persons are unable to agree about any matter in respect of which any of those persons has a right of appeal under this Act; and
(b) Every person who has such a right of appeal agrees—any of those persons may apply to the Planning Tribunal for an order authorising the matter to be determined by arbitration, under the Arbitration Act 1908, on such terms and conditions as the Tribunal considers appropriate.

(2) No person may apply to the Planning Tribunal for an order under subsection (1) in relation to any of the following matters:

(a) Any matter relating to a requirement, designation, or heritage order:
(b) Any matter relating to an application for a resource consent in respect of which the Minister has made a direction under section 140 (which relates to call-in):
(c) Any matter relating to a proposed regional policy statement or proposed regional coastal plan.

(3) Where an order under subsection (1) is made no person may, in relation to the matter to which the order relates, lodge or proceed with any appeal or make any reference to the Tribunal under clause 14 of the First Schedule, without the leave of the Tribunal.

(4) Subject to the terms of any order made under subsection (1), the arbitrator has the same powers, duties, and discretions in respect of any decision to which the order relates as the consent authority who made that decision; and may, in his or her award, confirm, amend, or cancel any such decision accordingly.

(5) Except as otherwise expressly provided, nothing in this section shall limit the right of any persons to refer to arbitration any disputed matter arising under this Act.

(6) In this section, “right of appeal” includes a right to make a reference to the Planning Tribunal under clause 14 (1) of the First Schedule (other than in respect of a proposed regional policy statement or proposed regional coastal plan).

857. Objections to certain decisions and requirements of consent authorities—(1) Any person who has made an application under—
(a) Section 10 (2) (which relates to existing uses of land); or
(b) Section 124 (b) (which relates to the exercise of a resource consent while applying for a new resource consent); or
(c) Section 125 (which relates to lapsing of consents); or
(d) Section 126 (which relates to cancellation of consents); or
(e) Section 184 (which relates to lapsing of designations)—shall have a right of objection to the consent authority in respect of that authority’s decision on that application.

(2) Except as provided in subsection (3), where under—
(a) Section 88 an application is made for a resource consent; or
(b) Section 127 an application is made for a change or cancellation of any condition of a resource consent; or
(c) Sections 128 to 132 a consent authority reviews the conditions of a resource consent—and, in accordance with section 94 or section 127 (3) or section 130 (3), the application or review is not notified in accordance with section 93, the applicant or consent holder shall have a right of objection to the consent authority in respect of that authority’s decision on the application or review.

(3) Subsection (2) shall not apply in the case of an application for a resource consent under section 88 where, under section 105, the consent authority refuses to grant the resource consent.

(4) Any person who has been required by a local authority to pay an additional charge under section 36 (3) shall have a right of objection to the local authority in respect of that requirement.

(5) Any such objection shall be made by notice in writing to the consent authority or local authority, setting out the reasons for the objection, within 15 working days after the decision or requirement being notified to that person, or within such further time as may in any case be allowed by the consent authority or local authority.

(6) The consent authority or local authority shall as soon as practicable consider the objection. Any meeting to hear an objection may be adjourned from time to time.

(7) The consent authority or local authority—
(a) May dismiss the objection or uphold the objection wholly or partly; and
(b) In the case of an objection in respect of an additional charge under section 36 (3), may remit the whole or any part of the additional charge in respect of which the objection was made; and
(c) Shall give to the objector, and to every person whom the local authority considers likely to be affected, notice in writing of its decision on the objection and the reasons for it.
(8) Where an objection is made under subsection (2) and, in accordance with subsection (7) (a), the consent authority decides to uphold the objection wholly or partly, that decision shall substitute for that part of the earlier decision to which the objection relates.

358. Appeals against certain decisions or objections—
(1) Any person who—
(a) Has made an objection under section 357; or
(b) Is affected by the decision on the objection—
may appeal to the Planning Tribunal against the decision.

(2) Notice of an appeal under this section shall be in the prescribed form, stating the reasons for the appeal, and shall be lodged with the Tribunal within 15 working days after the decision on the objection being notified to that person under section 357 (7) (c) or within such further time as the Planning Tribunal may in any case allow.

(3) Any person lodging an appeal under this section shall ensure that a copy of the notice of appeal is served on the consent authority or local authority at the same time as the notice is lodged with the Planning Tribunal.

(4) This section shall not apply to any person who has already exercised a right of appeal in respect of the same matter under section 120.

359. Regional councils to pay rents, royalties, and other money received into Crown Bank Account—All rents, royalties, and other sums of money which the holders of resource consents are, by virtue of any authorisation granted under section 161 or any regulations made under section 360 (1) (c), required to pay, shall be the property of the Crown and every regional council shall—

(a) Collect and receive from the holders of such resource consents in its region, all such rents, royalties, and other sums of money on behalf of the Crown; and

(b) Pay that money into the Crown Bank Account in accordance with the Public Finance Act 1989.

360. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) Prescribing the manner or content of applications, notices, or any other documentation or information as may be required under this Act:
(b) Prescribing the fees payable or the methods for calculating fees and recovering costs in respect of consent applications, tenders, and operations, or other matters under this Act:

(c) Prescribing the circumstances and manner in which holders of resource consents shall be liable to pay for the occupation of the coastal marine area, the bed of any river or lake which is land of the Crown, and the extraction of sand, shingle, and other natural materials from lands of the Crown, and the use of geothermal energy:

(d) Requiring the holders of water permits, discharge permits, coastal permits, or land use consents granted for any activity that would otherwise contravene section 13, to keep records for any purpose under this Act, and prescribing the nature of records, information, and returns, and the form, manner, and times in or at which they shall be kept or furnished:

(e) Providing for any project or work to be a network utility operation for the purpose of section 166:

(f) Prescribing the practice and procedure of the Planning Tribunal and the form of proceedings, both under this Act and in relation to the exercise of any jurisdiction conferred on the Tribunal by any other Act:

(g) Prescribing transitional and savings provisions relating to the coming into force of this Act, which may be in addition to or in place of any of the provisions of Part XV; and, without limiting the generality of the foregoing, any such regulations may provide that, subject to such conditions as are specified in the regulations, specified provisions of this Act shall not apply, or specified provisions of Acts repealed or amended by this Act, or of regulations, Orders in Council, notices, schemes, rights, licences, permits, approvals, authorisations, or consents made or given thereunder shall continue to apply, during a specified transitional period:

(h) Prescribing exemptions from any provision of section 15 (1), either absolutely or subject to any prescribed conditions, and either generally or specifically or in relation to particular descriptions of contaminants or to the discharge of contaminants in particular circumstances or from particular sources, or in
relation to any area of land or water specified in the regulations:

(i) Providing for any other such matters as are contemplated by, or necessary for giving full effect to, this Act and for its due administration.

(2) Any regulations may apply generally or may apply or be applied from time to time by the Minister by notice in the Gazette, within any specified district or region of any local authority or within any specified part of New Zealand, or to any specified class or classes of persons.

(3) All regulations made under subsection (1) (g) that are still in force on the day that is 5 years after the date of commencement of this Act shall expire at the close of that day.

361. Repeals and revocations—(1) The enactments specified in the Sixth Schedule are hereby repealed.

(2) The regulations and orders specified in the Seventh Schedule are hereby revoked.

(3) Every Order in Council made under section 8A or section 165 of the Harbours Act 1950 is hereby revoked.

(4) Every Proclamation made under section 132 of the Mining Act 1926 or under the corresponding provisions of any former enactment is hereby revoked.

362. Consequential amendments—The enactments specified in the Eighth Schedule are hereby amended in the manner indicated in that Schedule.

363. Conflicts with special Acts—Every local authority or other public body shall be guided, in the exercise of any function, power, or duty in relation to natural or physical resources imposed or conferred by any of the enactments specified in the Ninth Schedule, by the provisions of this Act, and where any conflict arises between any such enactment and this Act, the provisions of this Act shall prevail.

PART XV
TRANSITIONAL PROVISIONS

364. Application of this Part—This Part shall have effect notwithstanding the repeal of the enactments specified in the Sixth Schedule, the revocation of the regulations and orders specified in the Seventh Schedule, and the amendment of the enactments specified in the Eighth Schedule.
Meaning of “permission”—In this Part, the term “permission” means any of the following:

(a) A consent within the meaning of the Town and Country Planning Act 1977:

(b) A licence under the Geothermal Energy Act 1953 or an authorisation under section 9 (1) of that Act or powers or an authorisation under section 11 of that Act:

(c) A licence within the meaning of the Clean Air Act 1972 or an approval under section 31 of that Act in respect of any scheduled premises within the meaning of that Act:

(d) Any of the following:

   (i) A right in respect of water granted under section 21 (3) of the Water and Soil Conservation Act 1967 (or deemed to be so granted by virtue of section 58 (2) of the Water and Soil Conservation Amendment Act 1988):

   (ii) Any authorisation in respect of water under section 21 (2) or section 21 (2A) of that Act:

   (iii) Any right referred to in section 21 (1) of that Act that was granted during the period commencing on the 10th day of September 1966 and ending with the 31st day of December 1968:

   (iv) Any right as expressly authorised by any other Act (other than the Tasman Pulp and Paper Company Enabling Act 1954), Order in Council, or Provincial Ordinance before the enactment of the Water and Soil Conservation Act 1967 in respect of any specified water:

   (v) The Order in Council entitled Rights Conferred on the Minister of Electricity to Dam, Use, Discharge, and Divert Waters of, or into, Lakes Tekapo, Pukaki, and Ohau, published in the Gazette, 1969, Volume II, at page 1560:

   (vi) Any damming of a river or stream, and diversion or taking of natural water, and any discharge of natural water into any other natural water, and any use of natural water referred to in section 31 of the Water and Soil Conservation Amendment Act 1973:

   (vii) Any right to dam, divert, take, discharge into, or use water granted under section 3 of the Clutha Development (Clyde Dam) Empowering Act 1982:
(viii) Any right to take or use water granted under sections 4 or 5 of the Whakatane Paper Mills, Limited, Water Supply Empowering Act 1936 and transferred to the Whakatane Board Mills Limited by the Whakatane Board Mills Limited Water Supply Act 1961 that is in force and is exercisable by that company immediately before the date of commencement of this Act:

(e) An approval by a territorial authority, under section 279 of the Local Government Act 1974, of a scheme plan of subdivision within the meaning of section 270 of that Act (or the approval of a plan of subdivision under the corresponding provisions of any former enactment).

366. Effect of this Act on existing schemes, consents, etc.—Except as otherwise provided in this Part or in any regulations, from the date of commencement of this Act each of the following shall cease to have any effect:

(a) Every proposed or operative regional planning scheme, maritime planning scheme, district scheme, and combined scheme under the Town and Country Planning Act 1977:

(b) Every instrument referred to in section 368 (2) or section 370 (2):

(c) Every permission referred to in any of sections 383 to 387 and 402:

(d) Every bylaw referred to in section 424 (2) or (3):

(e) Every designation or requirement under the Town and Country Planning Act 1977 and every protection notice under section 36 of the Historic Places Act 1980:

(f) Every notice or direction under any of the following provisions:
   (i) Section 24D or section 24C of the Water and Soil Conservation Act 1967:
   (ii) Section 35 of the Soil Conservation and Rivers Control Amendment Act 1959:

(g) Every—
   (i) Current mining privilege within the meaning of section 2 of the Water and Soil Conservation Amendment Act 1971; and
   (ii) Right granted under the Water and Soil Conservation Act 1967 on an application made under
section 18 of the Water and Soil Conservation Amendment Act 1971.

367. Effect of regional planning schemes—(1) Except as provided in subsection (2), every regional council and territorial authority, in carrying out any of its functions described in sections 30 and 31, shall have regard to the provisions of a regional planning scheme approved under section 24 of the Town and Country Planning Act 1977 in respect of the region or district immediately before the date of commencement of this Act, to the extent that those provisions are not inconsistent with Part II.

(2) Subsection (1) shall cease to apply to a regional council or territorial authority once there is, in respect of the relevant region or district,—

(a) A proposed regional policy statement; and
(b) In the case of a region which includes a coastal marine area, an operative regional coastal plan (other than a regional coastal plan deemed to be constituted under section 370 (1)) in respect of the coastal marine area.

Transitional Regional Plans

368. Existing notices, bylaws, etc., to become regional plans—(1) Where one or more instruments of the kind referred to in subsection (2) are in force in respect of any part of a region except in the coastal marine area immediately before the date of commencement of this Act, a regional plan (not being a regional coastal plan) shall be deemed to be constituted for that region, which plan shall—

(a) Include as provisions of the plan such of those instruments as applied to that part of the region except in the coastal marine area (whether or not those instruments have been repealed or revoked by this Act); and
(b) Be deemed to be operative from the date of commencement of this Act until it ceases to be operative in accordance with this Part.

(2) The instruments to which subsection (1) applies are as follows:

(a) Local water conservation notices published in the Gazette under section 20 of the Water and Soil Conservation Act 1967:

(b) Final water classifications notified under section 26 of the Water and Soil Conservation Act 1967 and classifications deemed to be classifications made
under section 26E of that Act by section 25 (2) (b) of
the Water and Soil Conservation Amendment Act
(No. 2) 1971:
(c) Maximum and minimum levels, minimum standards of
quality, minimum acceptable flow, or maximum
range of flow of any water, fixed under section 20J of
the Water and Soil Conservation Act 1967:
(d) Authorisations that have been notified under section 22 of
the Water and Soil Conservation Act 1967:
(e) Any bylaw made under—
   (i) Section 149 or section 150 of the Soil
       Conservation and Rivers Control Act 1941; or
   (ii) Section 34A of the Water and Soil Conservation
       Act 1967 or section 4 of the Water and Soil
       Conservation Amendment Act 1973; or
   (iii) Section 50 of the Land Drainage Act 1908; or
   (iv) Section 24 (2) or section 55A of the Clean Air
       Act 1972—
       to the extent that the subject-matter of the bylaw
       could be the subject-matter of a regional rule:
(f) Notices under section 34 (2) of the Soil Conservation and
       Rivers Control Amendment Act 1959 which were
       notified on or after the day that is 2 years before the
       date of commencement of this Act:
(g) The Clean Air Zone (Christchurch) Order 1977 (except for
       clause 5G) and the Clean Air Zones (Canterbury
       Region) Order 1984 (except for clause 5), and sections
       2, 7, 8, 10, 15, 16 (1), 16 (2), 17, 19, and 20 of, and the
       First and Second Schedules to, the Clean Air Act 1972
       and the Clean Air (Smoke) Regulations 1975, in so far
       as they apply in relation to the clean air zones
       declared by those orders.

369. Provisions deemed to be regional rules—(1) A
provision that is deemed by section 368 (1) to be a provision of
a regional plan and that, expressly or by implication and
whether or not subject to conditions,—
(a) Authorises anything without further consent or approval
   being required from any person under any
   enactment, regulation, or order referred to in the
   Sixth, Seventh, or Eighth Schedules, is deemed to be a
   regional rule in respect of a permitted activity; or
(b) Authorises anything if the consent or approval of any
   person is obtained from any person under any
   enactment, regulation, or order referred to in the
Sixth, Seventh, or Eighth Schedules, is deemed to be a regional rule in respect of a discretionary activity; or

(c) Prohibits anything, or provides that it is an offence to do or omit to do anything, is deemed to be a regional rule having the effect of making an activity to which that act or omission relates a non-complying activity—

and the provisions of this Act shall apply accordingly.

(2) Notwithstanding subsection (1), a bylaw shall be deemed by subsection (1) to be a regional rule only if the regional council for the region concerned has publicly notified the relevant plan in accordance with section 376.

(3) Where provisions of a final water classification of the kind referred to in section 368 (2) (b) are deemed to constitute provisions of a regional plan under section 368 (1), the plan shall be deemed to include a regional rule requiring the minimum standards of water quality referred to in the classification to be maintained after reasonable mixing and a provision that the objective of that rule is to promote in the public interest the conservation and the best use of that water.

(4) Where provisions of an authorisation of the kind referred to in section 368 (2) (d) are deemed to constitute provisions of a regional plan under section 368 (1) and the authorisation authorises the damming of a river or stream, or rivers or streams within any specified area, the plan shall be deemed to include a regional rule to the effect that any such damming is a discretionary activity.

(5) Where provisions of a notice of the kind referred to in section 368 (2) (f) are deemed to constitute provisions of a regional plan under section 368 (1)—

(a) The plan shall be deemed to include a regional rule to the effect that no person may do or omit to do anything which the notice declares as likely to facilitate soil erosion or floods or cause deposits in watercourses, lakes, or the sea; and

(b) The provisions shall cease to be operative on the expiry of 2 years from the date when the notice was notified under section 34 (2) of the Soil Conservation and Rivers Control Amendment Act 1959.

(6) Subject to subsection (7), where the maximum and minimum levels, minimum standards of quality, minimum acceptable flow, or maximum range of flow of any water fixed under section 20 of the Water and Soil Conservation Act 1967 are deemed to constitute the provisions of a regional plan under section 368 (1), the plan shall be deemed to include a rule
(7) A regional plan deemed to be constituted under section 368 may, at any time, in accordance with section 65, be changed so as to exclude or modify the application of subsections (3), (4), (5), or (6) to the plan.

**Transitional Regional Coastal Plans**

**370. Existing notices, bylaws, etc., to become regional coastal plans**—(1) Where one or more instruments of the kind referred to in subsection (2) are in force in respect of any part of a region within the coastal marine area immediately before the date of commencement of this Act, a regional coastal plan shall be deemed to be constituted for that region, which plan shall—

(a) Include as provisions of the plan such of those instruments as applied to that part of the region within the coastal marine area (whether or not those instruments have been repealed or revoked by this Act); and

(b) Be deemed to be operative from the date of commencement of this Act; and

(c) Cease to be operative on the date upon which a regional coastal plan prepared in the manner set out in the First Schedule becomes operative for that region.

(2) The instruments to which subsection (1) applies are as follows:

(a) Operative district schemes, combined schemes, and maritime planning schemes under the Town and Country Planning Act 1977:

(b) Determinations of the Minister of Fisheries under section 4 (2) of the Marine Farming Act 1971 and notified in the *Gazette* under section 4 (4) of that Act that any areas shall not be available for leasing or licensing under that Act:

(c) Instruments of the kinds referred to in section 368 (2).

(3) Where, in respect of the whole or any part of the coastal marine area of a region, any provision of a proposed district scheme, maritime planning scheme, or combined scheme, or any proposed change or variation, under the Town and Country Planning Act 1977 has been publicly notified before the date of commencement of this Act, that provision shall be deemed to constitute a provision of a proposed regional coastal plan for that region.

(4) Notwithstanding section 64 (4) and clause 22 (1) of the First Schedule (which enable any person to propose a change to
a regional coastal plan), a request under clause 23 of the First Schedule to a regional council to change a regional coastal plan deemed to be constituted under subsection (1) may only be made by one of the following persons:

(a) The Minister of Conservation:
(b) The territorial authority for any district that is within or adjoins the relevant region.

371. Provisions deemed to be regional rules—(1) A provision of a district scheme or a combined scheme under the Town and Country Planning Act 1977 that is deemed by section 370 to be a provision of a regional coastal plan shall also be deemed to be—

(a) A regional rule in respect of a controlled activity where, under the district scheme or combined scheme, the provision provided for specified controls and powers in respect of any controlled use within the meaning of the Town and Country Planning Act 1977:

(b) A regional rule in respect of a discretionary activity where the provision of the district scheme or combined scheme required an application for approval as a conditional use within the meaning of the Town and Country Planning Act 1977:

(c) A regional rule in respect of a non-complying activity where the provision of the district scheme or combined scheme required an application for dispensation from any provision of the scheme in accordance with section 76 of the Town and Country Planning Act 1977 to be made with notice—

and the provisions of this Act shall apply accordingly.

(2) Any determination by the Minister of Fisheries described in section 370 (2) (b) shall be deemed to be a regional rule having the effect of making marine farming within the meaning of the Marine Farming Act 1971 a prohibited activity in any areas specified in that determination.

(3) Except as provided in subsections (1) and (2), sections 368 and 369 shall apply in respect of regional coastal plans as if every reference in those sections to—

(a) A regional plan, were a reference to a regional coastal plan; and

(b) Section 368 (1), were a reference to section 370 (1); and

(c) Section 65, were a reference to section 64.

(4) Where any former district scheme or combined scheme provided, in accordance with section 36 (7) of the Town and Country Planning Act 1977, that any application or class of
application could be made without notice, that provision shall continue to apply.

872. Power of Minister of Conservation to give directions relating to restricted coastal activities—
(1) Subject to subsection (3), the Minister of Conservation may, from time to time, having regard to the matters set out in paragraphs (a) and (b) of section 68 (4) and such other matters as the Minister considers appropriate, direct a regional council, in accordance with subsection (2), to—

(a) Treat any specified activity in the coastal marine area as a restricted coastal activity for the purposes of this Act, whether or not any regional coastal plan is deemed to be operative in that region under section 370;

(b) Make any specified change to a regional coastal plan deemed to be operative under section 370 for the purpose of identifying in the plan what activities are restricted coastal activities;

(c) Deal with any specified application for permission or for a coastal permit in respect of any activity in the coastal marine area as an application for a restricted coastal activity,—

and the regional council shall forthwith comply with that direction accordingly.

(2) A direction under subsection (1) shall be in writing, and shall be served on the relevant regional council.

(3) A direction under subsection (1)—

(a) Shall not affect any application for a permission or a coastal permit in respect of which the regional council has notified its decision; and

(b) Shall not affect any other application for a permission or a coastal permit in respect of which the regional council has, before the date upon which the direction is served, fixed a commencement date for a hearing, which date is less than 6 working days after the date upon which the direction is served; and

(c) Shall cease to have effect upon the date that a proposed regional coastal plan is notified under clause 5 of the First Schedule.

(4) Upon receipt of a direction under subsection (1), the regional council so directed shall, as soon as reasonably practicable,—

(a) Without further formality, make any change to a regional coastal plan specified in the direction for the purpose of identifying in the plan what activities are restricted
coastal activities, and from the date of the change the activities concerned shall be deemed to be restricted coastal activities; and

(b) Where the direction specifies that an application for a permission or for a coastal permit in respect of any activity in the coastal marine area shall be dealt with as an application for a restricted coastal activity, serve a copy of the direction on every applicant for that permission or coastal permit and every person who has made a submission in respect of that application; and

(c) Give public notice of the direction, including a description of—

(i) Any change to be made to any regional coastal plan; and

(ii) Any application for permission or for a coastal permit specified in the direction.

(5) Other provisions of this Act relating to the changing of a regional coastal plan do not apply to a change made in accordance with a direction given under subsection (1).

(6) Subject to subsection (3), a direction given under this section shall take effect on the date that it is served, regardless of when the regional council makes any change to any regional coastal plan specified in the direction.

(7) Until such time as a proposed regional coastal plan is notified in respect of a region, the Minister of Conservation may, from time to time, direct the relevant regional council as to—

(a) Matters which the regional council shall have regard to in considering any application or class of applications for a coastal permit; and

(b) The conditions that should or should not be included in any coastal permit or class of coastal permits; and

(c) Such other matters as the Minister thinks fit.

(8) Subsections (2) and (3) shall apply to any directions given under subsection (7), except that those directions shall cease to have effect on the date that a proposed regional coastal plan is notified under clause 5 of the First Schedule.

Transitional District Plans

378. Existing district and maritime schemes to become district plans—(1) Where any operative district scheme or combined scheme or maritime planning scheme under the Town and Country Planning Act 1977 is in force in respect of the whole or any part of a district immediately before the date
of commencement of this Act, a district plan shall be deemed to be constituted for that district, which plan shall—

(a) Include as provisions of the plan such of the provisions of those schemes as apply to the district; and

(b) Be deemed to be operative from the date of commencement of this Act until it ceases to be operative in accordance with this Act.

(2) Where any proposed district scheme or combined scheme or maritime planning scheme or any proposed change or variation under the Town and Country Planning Act 1977 in respect of the whole or part of a district has been publicly notified before the date of commencement of this Act, a proposed plan or change shall be deemed to be constituted for that district.

(3) Where a plan is deemed to be constituted under subsection (1), or where a proposed plan or change is deemed to be constituted under subsection (2), the plan shall be deemed to include a rule to the effect that every activity not specifically referred to in the plan is a non-complying activity.

(4) Where, immediately before the date of commencement of this Act,—

(a) No operative district scheme, combined scheme, or maritime planning scheme under the Town and Country Planning Act 1977 is in force; and

(b) No proposed district scheme, combined scheme, or maritime planning scheme, or proposed change or variation, under that Act has been publicly notified—

in respect of any district, then, for the purposes of this Act every use of land within the meaning of section 9 (4) and everything described in section 13 (2) shall be deemed to be a discretionary activity.

874. Provisions deemed to be district rules—(1) A provision of a district scheme or combined scheme that is deemed by section 373 to be a provision of a district plan shall be deemed to be—

(a) A district rule in respect of a controlled activity where, under the district scheme or combined scheme, the provision provided for specified controls and powers in respect of any controlled use within the meaning of the Town and Country Planning Act 1977; or

(b) A district rule in respect of a discretionary activity where the provision of the district scheme or combined scheme required an application for approval as a
conditional use within the meaning of the Town and Country Planning Act 1977; or

(c) A district rule in respect of a non-complying activity where the provision of the district scheme or combined scheme required an application for dispensation from any provision of the scheme in accordance with section 76 of the Town and Country Planning Act 1977 to be made with notice,—

and the provisions of this Act shall apply accordingly.

(2) Where a former district scheme or combined scheme provided, in accordance with section 36(7) of the Town and Country Planning Act 1977, that any application or class of application could be made without notice, that provision shall continue to apply.

(3) Except as otherwise provided in subsection (1), a provision that is deemed by section 373 to be a provision of a district plan and that, expressly or by implication and whether or not subject to conditions,—

(a) Authorised anything without further consent or approval from the former consent authority being required, is deemed to be a district rule in respect of a permitted activity; or

(b) Authorised anything if the consent or approval of the former consent authority was obtained, is deemed to be a district rule in respect of a discretionary activity; or

(c) Prohibited anything, or provided that it was an offence to do or not to do anything, is deemed to be a district rule having the effect of making an activity to which the act or omission relates a non-complying activity,—

and the provisions of this Act shall apply accordingly.

(4) Subsections (1) to (3) shall apply, with all necessary modifications, in respect of a provision of any proposed district scheme or maritime planning scheme or any proposed change or variation under the Town and Country Planning Act 1977 that has been publicly notified before the date of commencement of this Act.

875. Transitional provisions for public utilities—

(1) Subject to subsection (2), every district plan constituted under section 373 shall be deemed to include—

(a) A rule that each of the following is a permitted activity throughout the district:
(i) Transformers and lines for conveying electricity at a voltage up to and including 110 KV with a capacity up to and including 100 MVA:

(ii) Household, commercial, and industrial connections to gas, water, drainage, and sewer pipes:

(iii) Water and irrigation races, drains, channels, and pipes and necessary incidental equipment:

(iv) Lines as defined by section 2 (1A) of the Telecommunications Act 1987:

(v) Pipes for the distribution (but not transmission) of natural or manufactured gas at a gauge pressure not exceeding 2000 kilopascals and necessary incidental equipment, including household connections and compressor stations:

(vi) Pipes for the conveyance or drainage of water or sewage, and necessary incidental equipment including household connections:

(vii) Lighthouses, navigational aids, and beacons;

(b) A rule that each of the following is a discretionary activity throughout the district and shall be allowed upon the condition that the territorial authority is satisfied that the proposed location is suitable, namely:

(i) Transformers and lines for conveying electricity at a voltage exceeding 110 KV and a capacity exceeding 100 MVA:

(ii) Pipes for the transmission of natural or manufactured gas at a gauge pressure exceeding 2000 kilopascals and necessary incidental equipment, including compressor stations.

(2) A district plan constituted under section 373 may, at any time, in accordance with section 73 (2), be changed so as to exclude or modify the application of this section to the plan.

(3) This section shall cease to have effect in relation to any district plan constituted under section 373—

(a) On the date upon which the district scheme or maritime planning scheme from which the district plan is constituted was due for review in terms of section 59 (2) or section 109 (3) of the Town and Country Planning Act 1977; or

(b) On the second anniversary of the date of commencement of this Act,— whichever is the later.
876. Transitional plans to be notified and available—
The regional council or territorial authority of a region or
district for which there is deemed to be a plan by virtue of any
of sections 368, 370, and 373 or by virtue of the operation of
section 378 shall—
(a) As soon as reasonably practicable, publicly notify the fact
that as from the date of commencement of this Act
the plan became operative and a description of the
instruments or schemes whose provisions are
included as provisions of that plan, and send a copy
of the notice to every person and authority referred
to in clause 5 of the First Schedule; and
(b) Keep in accordance with section 35 copies of the plan at
its principal office and in a form readily accessible to
the public.

877. Obligation to review transitional plans—(1) A local
authority shall review a plan constituted under this Part and,
subject to subsection (2), section 79 shall apply to such review.
(2) Where the plan includes any provisions of—
(a) A district scheme or combined scheme or a maritime
planning scheme, section 79 shall apply to a review of
that plan under subsection (1) as if the reference in
section 79 (1) and (2) to the tenth year after the plan
became operative were a reference to the date upon
which that scheme would have been due for review
under section 59 or section 109 (3) of the Town and
Country Planning Act 1977 if this Act had not been
enacted:
(b) Two or more district schemes or combined schemes or
maritime planning schemes, section 79 shall apply to
a review of that plan under subsection (1) as if the
reference in section 79 (1) and (2) to the tenth year
after the plan became operative were a reference to
the latest date upon which any of those schemes
would have been due for review under section 59 or
section 109 (3) of the Town and Country Planning Act
1977.
(3) Where the plan includes any provisions of a district
scheme, combined scheme, maritime planning scheme, or
instrument that is deemed to have been completed and made
operative under section 378, section 79 shall apply to a review
of that plan under subsection (1) as if the reference in section
79 (1) and (2) to the tenth year after the plan became operative
were a reference to the fifth year after the provisions of the plan made operative under section 378 became operative.

(4) Subsections (1) and (2) are subject to subsection (3).

378. Proceedings in relation to plans—(1) Subject to subsection (3), all proposed district schemes, combined schemes, and maritime planning schemes, and all changes to and variations and reviews of operative district schemes, combined schemes, and maritime planning schemes, under the Town and Country Planning Act 1977 that are publicly notified but not operative prior to the date of commencement of this Act, may be continued and completed in all respects as if that Act continued in force, and, when completed, shall have effect under this Part after they have been completed as if they had been completed and made operative before the date of commencement of this Act.

(2) All proceedings relating to the preparation, amendment, review, or revocation of any instrument referred to in section 368 (2) that were commenced before the date of commencement of this Act and have not been completed at that date shall be continued and completed in all respects—

(a) In cases where they have been wholly or partly heard, as if the enactments repealed by this Act continued in force; and

(b) In all other cases, as if they had been commenced under this Act which shall apply accordingly,—

and all such proceedings, when completed, shall have effect under this Part after they have been completed as if they had been completed before the date of commencement of this Act.

(3) Subject to section 427 (7), where any proposed district scheme, maritime planning scheme, or combined scheme under the Town and Country Planning Act 1977, or change to or variation or review of any such scheme under that Act, relates solely or in part to the whole or any part of the coastal marine area of a region, all functions, powers, and duties under subsection (1) in relation to such proposed scheme, change, variation, or review, or part thereof, as the case may be, shall, on the date of commencement of this Act, transfer to the relevant regional council.

(4) Any person, who if this Act had not been enacted, had—

(a) A right of appeal to the High Court on a question of law;

or

(b) A right to make any application for review—in respect of any proceedings to which subsection (1) or (2) applies shall continue to have that right, and that right may be
exercised as if the enactments repealed by this Act continued in force.

879. **Declarations**—Section 310 shall have effect as if the following paragraph were added:

"(f) Whether provisions of any instrument of a kind referred to in section 368 (2) are deemed to constitute provisions of a plan under any of sections 368 and 370, and whether any such provision or any provision of a plan under section 373 is deemed by this Part to be a rule in respect of a permitted activity, a controlled activity, a discretionary activity, or a non-complying activity."

**Transitional Notices, Directions, etc.**

880. **Existing notices which continue in effect**—Every notice given under any of the following enactments and that is in force immediately before the date of commencement of this Act shall continue to have effect, and the enactment under which it was given shall continue to apply, as if this Act had not been enacted:

(a) Section 6 of the Noise Control Act 1982 (which relates to noise abatement notices);

(b) Section 77 of the Town and Country Planning Act 1977 (which imposes a duty to keep objectionable elements to a minimum);

(c) Section 94 of the Town and Country Planning Act 1977 (which relates to enforcement of district schemes);

(d) Section 177 of the Harbours Act 1950 (which relates to the removal of unauthorised works);

(e) Section 29A of the Clean Air Act 1972 (which relates to the shutting down of processes) and section 42 of that Act (which relates to the furnishing of information).

881. **Existing notices deemed to be abatement notices**—(1) Subject to subsection (2), every notice given under any of the following enactments that is in force (whether or not subject to any appeal) immediately before the date on which this Act commences shall be deemed to be an abatement notice served on a person under section 322 and the provisions of this Act (other than those giving rights of appeal) shall apply accordingly:

(a) Sections 24d and 24g of the Water and Soil Conservation Act 1967 (which authorises restrictions on and cessation of the exercise of rights relating to water):
(b) Section 35 of the Soil Conservation and Rivers Control Amendment Act 1959 (which authorises requirements relating to soil conservation).

(2) Any right of appeal against a notice of a kind referred to in subsection (1) that exists at the date of commencement of this Act shall continue after that date as if the enactment giving that right continued in force.

382. Existing direction deemed to be excessive noise direction—Every direction given under section 9(3) of the Noise Control Act 1982 and that is in force immediately before the date of commencement of this Act shall be deemed to be an excessive noise direction given under section 327 on the same conditions; and the provisions of this Act shall apply accordingly.

Transitional Resource Consents

383. Existing permissions to become land use consents—Every permission—

(a) Granted under any of Parts II, IV, and V of the Town and Country Planning Act 1977 (or the corresponding provisions of any former enactment) in respect of any area in a district; and

(b) In force immediately before the date of commencement of this Act—

shall be deemed to be a land use consent granted under this Act on the same conditions (including those set out in any enactment whether or not repealed or revoked by this Act, except to the extent that they are inconsistent with the provisions of this Act) by the appropriate territorial authority; and the provisions of this Act shall apply accordingly.

384. Existing permissions to become coastal permits—

(1) Every—

(a) Permission granted under any of Parts II, IV, and V of the Town and Country Planning Act 1977; and

(b) Licence or permit granted under section 146A or section 156 or section 162 or section 165 of the Harbours Act 1950, Order in Council made under section 175 of that Act, and every approval granted under section 178 (1) (b) of that Act—

(or the corresponding provisions of any former enactment) in respect of any area in the coastal marine area and that is in force immediately before the date of commencement of this Act shall be deemed to be a coastal permit granted under this
Act on the same conditions (including those set out in any enactment whether or not repealed or revoked by this Act, except to the extent that they are inconsistent with the provisions of this Act) by the appropriate consent authority, and the provisions of this Act shall apply accordingly.

(2) Notwithstanding section 12, a person who is the holder of—

(a) A permission referred to in subsection (1) (a); or

(b) A licence, permit, or approval referred to in subsection (1) (b); or

(c) A coastal permit granted by virtue of the operation of section 389—

shall not thereby be authorised to carry out any activity referred to in section 12 (1) or (2) or (3), except where that person also holds every other permission, licence, permit, or approval referred to in subsection (1) (a) or (b) that, immediately before the date of commencement of this Act, he or she was legally required to hold in order to carry out the activity.

(3) Notwithstanding subsection (2), every coastal permit deemed to be granted by subsection (1) shall be deemed to include a condition enabling the holder of the permit, at any time within 2 years after the date of commencement of this Act, to apply to the relevant regional council under section 127 (1) to change the permit for the purpose of including, as conditions of that permit, matters that could have been included in a permission referred to in subsection (1) (a) or a licence, permit, or approval referred to in subsection (1) (b), and of enabling the permit to authorise the activity.

385. Existing clean air permissions to become discharge permits—(1) Every permission granted under—

(a) Section 25 of the Clean Air Act 1972; or

(b) Section 31 of that Act—

(or the corresponding provisions of any former enactment) that is in force immediately before the date of commencement of this Act shall be deemed to be a discharge permit granted under this Act on the same conditions (including those set in any enactment whether or not repealed by this Act) by the appropriate consent authority, and the provisions of this Act shall apply accordingly.

(2) Without limiting subsection (1), every permission to which subsection (1) applies shall be deemed to include, as conditions of the permission, sections 25 (7), 25A (2) to (6), 26 (8), and 31 of the Clean Air Act 1972.
(3) Notwithstanding section 15, a discharge permit deemed to be granted by—

(a) Subsection (1) (a) does not authorise any person to do anything referred to in section 15 except where doing such a thing—

(i) Is also authorised by a discharge permit deemed to be granted by subsection (1) (b) or by virtue of the operation of section 389; or

(ii) Immediately before the date of commencement of this Act could lawfully have been carried out without being authorised by a permission referred to in subsection (1) (b);

(b) Subsection (1) (b) does not authorise any person to do anything referred to in section 15 except where doing such a thing—

(i) Is also authorised by a discharge permit deemed to be granted by subsection (1) (a) or by virtue of the operation of section 389; or

(ii) Immediately before the date of commencement of this Act could lawfully have been carried out without being authorised by a permission referred to in subsection (1) (a).

(4) Notwithstanding subsection (2), every discharge permit deemed to be granted by subsection (1) shall be deemed to include a condition enabling the holder of the permit, at any time within 2 years after the date of commencement of this Act or until the date of expiry of the permit, whichever first occurs, to apply to the relevant regional council under section 127 (1) to change the permit for the purpose of including, as conditions of that consent, matters that could have been included in a permission referred to in subsection (1) (a) or subsection (1) (b), and of enabling the consent to authorise the discharge of contaminants into the air.

(5) The date of expiry of any discharge permit deemed to be granted by subsection (1) shall be one year after the date on which the permission would have expired if this Act had not been passed.

886. Existing rights and authorities under Water and Soil Conservation Act 1967—(1) Except as provided in subsections (2) to (7),—

(a) Every right—

(i) Granted under section 21 (3) of the Water and Soil Conservation Act 1967; or
(ii) Deemed to be so granted by virtue of section 58(1) of the Water and Soil Conservation Amendment Act 1988; or

(iii) Referred to in subparagraphs (v) or (vii) of section 365(d)—

(in this section called an “existing right”); and

(b) Every authority under section 21(2) or section 21(2A) of the Water and Soil Conservation Act 1967 (in this section called an “existing authority”); and

(c) Every right—

(i) Referred to in section 21(1) of that Act that was granted during the period commencing on the 10th day of September 1966 and ending with the 31st day of December 1968; or

(ii) Expressly authorised by any other Act (other than the Tasman Pulp and Paper Company Enabling Act 1954) or Provincial Ordinance before the passing of that Act in respect of any specified water; or

(iii) Referred to in subparagraphs (vi) or (viii) of section 365(d)—

(in this section called an “existing authority”)—

that is in force immediately before the date of commencement of this Act shall be deemed to be—

(d) A coastal permit, where it relates to a coastal marine area; or

(e) Where it does not relate to a coastal marine area—

(i) A water permit, if it authorises something that would otherwise contravene section 14; or

(ii) A discharge permit, if it authorises something that would otherwise contravene section 15—

granted under this Act on the same conditions (including those set out in any enactment whether or not repealed or revoked by this Act) by the appropriate consent authority; and the provisions of this Act shall apply accordingly.

(2) Where a permit resulting from an existing right would, but for this subsection, finally expire later than the thirty-fifth anniversary of the date of commencement of this Act, the permit shall be deemed to include a condition to the effect that it finally expires on the thirty-fifth anniversary of the date of commencement of this Act, and that condition shall have effect in place of any other provision as to duration.

(3) Every permit resulting from an existing authority shall be deemed to include a condition to the effect that it finally expires on the tenth anniversary of the date of commencement of this Act.
(4) No enforcement order may be made under section 319 against the holder of any permit resulting from an existing authority in respect of any activity to which the permit relates except upon an application under section 316 made by the relevant regional council.

(5) No permit resulting from an existing authority shall be transferable from site to site.

(6) The holder of a permit resulting from an existing authority may, in order to replace that permit, apply at any time under Part VI for another permit in respect of the activity to which the first-mentioned permit relates.

(7) Notwithstanding section 14 (3) (a), a water permit for the taking or use of geothermal water deemed to be granted by subsection (1)—

(a) Does not authorise any person to take or use such geothermal water except where such taking or use is also authorised by—

(i) A water permit or coastal permit deemed to be granted by virtue of section 387; or

(ii) A water permit or coastal permit granted in respect of an application for a licence under the Geothermal Energy Act 1953, by virtue of the operation of section 389; and

(b) Notwithstanding paragraph (a), shall be deemed to include a condition enabling the holder of the permit, at any time within 2 years after the date of commencement of this Act, to apply to the consent authority under section 127 (1) to change the permit for the purpose of including, as conditions of that permit, matters that could have been included in a licence granted under the Geothermal Energy Act 1953, and of enabling that permit to authorise the taking or use of geothermal water.

(8) Nothing in this section applies in respect of any mining privilege within the meaning of section 413 (1).

387. Existing geothermal licences and authorisations deemed to be water permits—(1) Every licence under the Geothermal Energy Act 1953 and every authorisation under section 9 (1) (c) of that Act and every power or authorisation under section 11 of that Act that is in force immediately before the date of commencement of this Act shall, to the extent that it licenses or authorises the taking, tapping, use, or application of geothermal energy (within the meaning of the Geothermal Energy Act 1953)—
(a) Within the coastal marine area, be deemed to be a coastal permit; and

(b) In every other case, be deemed to be a water permit—granted under this Act on the same conditions (including those set out in any enactment whether or not repealed or revoked) by the appropriate consent authority, and the provisions of this Act shall apply accordingly.

(2) Notwithstanding section 14 (3) (a), a permit deemed to be granted under subsection (1) does not authorise any person to take or use geothermal water except where such taking or use is also authorised by a water permit or a coastal permit granted under Part VI or deemed to be so granted by virtue of section 386.

(3) Subject to subsection (2), where, for the purpose of taking or using geothermal water, a person holds—

(a) A permit referred to in subsection (1) or a water permit or a coastal permit granted in respect of an application for a licence under the Geothermal Energy Act 1953, by virtue of the operation of section 389; and

(b) A water permit or coastal permit granted under Part VI or deemed to be so granted by virtue of section 386—then the total amount of geothermal water which the holder of those permits shall be entitled to take or use pursuant to those permits shall be the lesser of the amounts specified in the respective permits.

(4) From the date of commencement of this Act, the persons specified below shall be responsible for exercising any functions, powers, and duties in respect of the following conditions of, or provisions of the Geothermal Energy Act 1953 that relate to, any water permit or coastal permit under this section, any water permit or coastal permit granted under section 389 in respect of an application for a licence under the Geothermal Energy Act 1953, or any water permit or coastal permit whose conditions have been changed under section 386 (7) (b):

(a) Conditions or provisions concerning occupational safety or health, the Minister of Energy:

(b) All other conditions and provisions, the consent authority concerned.

(5) Subsections (2) and (3) of section 108 of the Crown Minerals Act 1991 shall apply in respect of subsection (4) of this section as if every reference in those subsections were a reference to subsection (4) of this section.
388. Requirement to supply information—(1) Every person who exercises a resource consent that is deemed to be granted under any of sections 384 (1)(b), 385, 386, 387, and 413 shall, as and when required by the consent authority to do so, supply the consent authority with information as to the nature and extent of the activities carried out under the consent and the effects of those activities upon the environment within the region.

(2) The purpose for which information may be required under subsection (1) is to enable the consent authority to properly manage the resource affected by any such activity.

389. Existing applications for permissions—

(1) Where—

(a) An application has been made for a permission (other than a permission referred to in subsection (2)) before the date of commencement of this Act; and

(b) The permission would on that date become a resource consent under any of sections 383 to 387 if it had been granted before that date; and

(c) The application has not been granted, declined, or withdrawn before that date—

the application shall be deemed to be an application for a resource consent of the appropriate kind and this section shall apply in respect of the application.

(2) This section shall not apply to any of the following applications for permission:

(a) An application for approval of a scheme plan of subdivision (to which section 404 applies); or

(b) An application for an Order in Council to reclaim land or to carry out harbour works (to which section 393 applies); or

(c) An application for a licence within the meaning of the Clean Air Act 1972 (to which section 391 applies); or

(d) An application for a lease or licence under the Marine Farming Act 1971 (to which section 397 applies).

(3) In any case where the consideration of an application to which subsection (1) applies in accordance with the enactment under which the application was made involves a hearing and that hearing had commenced before the date of commencement of this Act, the application shall be determined as if this Act had not been enacted.

(4) Except as provided in subsection (3), the person empowered by the enactment under which the application was made to decide an application to which subsection (1) applies—
(a) Shall not decide that application; and
(b) Shall, as soon as practicable,
   (i) Endorse on the application the date on which it was made; and
   (ii) Refer the application and all information relevant to it to the relevant consent authority—
and, for the purposes of section 88 (but without limiting section 399), that application shall be deemed to be an application for a resource consent of the appropriate kind, made by the applicant on the date that it is received by the relevant consent authority, and this Act shall apply accordingly.

(5) The granting of an application to which subsection (1) applies in accordance with this section—
   (a) Constitutes the granting of a resource consent of the appropriate kind under this Act notwithstanding that all requirements of this Act in relation to applications for, and the granting of, resource consents may not have been complied with; and
   (b) May be appealed against in accordance with this Act accordingly.

(6) A person who, if this Act had not been enacted, had—
   (a) A right of appeal; or
   (b) A right to make any application for review—in respect of any determination of any application to which subsection (1) applies or any decision thereon may continue to exercise that right.

390. Appeals in respect of applications for permission—(1) All appeals to the Planning Tribunal arising out of applications for permission—
   (a) That were lodged with the Tribunal before the date of commencement of this Act and have not been completed at that date; or
   (b) That were lodged with the Tribunal after the date of commencement of this Act under section 389 (6)—shall be continued and completed in all respects (whether or not any hearing has commenced) as if the enactments repealed by this Act continued in force.

(2) Except as provided in subsection (1), all appeals to the Planning Tribunal arising out of applications for permission shall be continued and completed in all respects as if they had been commenced under this Act, which shall apply accordingly.

391. Applications for licences and approvals under Clean Air Act 1972—(1) Where, before the date of
commencement of this Act, an application has been made for—

(a) A licence within the meaning of the Clean Air Act 1972; or

(b) An approval under section 31 of that Act in respect of any scheduled premises within the meaning of that Act—and the application has not been granted, declined, or withdrawn before that date, the licensing authority shall, as soon as reasonably practicable, decide whether the application is to be dealt with after that date—

(c) By the licensing authority, in accordance with the Clean Air Act 1972 as if this Act had not been enacted; or

(d) By the licensing authority, in accordance with the Clean Air Act 1972 as if this Act had not been enacted, but having regard to the matters set out in section 104 (which deals with matters to be considered on an application for a resource consent); or

(e) By the appropriate consent authority, in accordance with this Act, as if the application had been made under this Act—and any such decision shall be final and not subject to appeal to, or review by, any Court or the Planning Tribunal.

(2) When making a decision for the purposes of subsection (1), the licensing authority shall have regard to—

(a) The progress made in consideration of the application; and

(b) Any representations (whether written or not) made to the authority by the applicant and any other person as to the appropriate manner of dealing with the application—and shall also ensure that written notice of the decision and anything that the applicant is required to do as a result of the decision is served, as soon as reasonably practicable after the decision is made, on every person (including the applicant) whom the licensing authority considers should receive notice.

(3) Where the licensing authority decides that the application should be dealt with in accordance with subsection (1) (e), the licensing authority shall as soon as reasonably practicable refer the application, and all information relevant to it, to the relevant consent authority and, for the purposes of section 88, the application shall be deemed to be an application for a discharge permit made by the applicant on the date that it is received by the relevant consent authority.

(4) The granting of an application to which subsection (1) applies in accordance with this section—
(a) Constitutes the granting of a discharge permit under this Act, notwithstanding that all requirements of this Act in relation to applications for, and granting of, discharge permits may not have been complied with; and
(b) May be appealed against in accordance with this Act accordingly.

(5) A person who, if this Act had not been enacted, had—
(a) A right of appeal; or
(b) A right to make any application for review—in respect of any application to which subsection (1) applies or any decision thereon may continue to exercise that right.

(6) In this section, "licensing authority" has the same meaning as in section 2 (1) of the Clean Air Act 1972 before its repeal by this Act.

392. Provisions of Clean Air Act 1972 may be considered on applications for resource consents for discharging contaminants into the air—Without limiting section 104, when considering an application for a resource consent to discharge any contaminant into air, a consent authority may have regard to the provisions of the Clean Air Act 1972 notwithstanding the repeal of that Act by this Act.

398. Applications for Orders in Council to reclaim land and approval for harbour works—(1) Where, before the date of commencement of this Act, an application has been made under the Harbours Act 1950—
(a) For an Order in Council under section 175 (2) or section 175 (3) of that Act to authorise reclamation of land, and a recommendation to the Governor-General in respect of the application has not been made under section 175 of that Act by the Minister of Transport or the Minister of Conservation or both; or
(b) For approval under section 178 (1) (b) of that Act to carry out harbour works, and approval of the application has not been given by the Minister of Transport or the Minister of Conservation or both—then the application shall be deemed to be an application for a coastal permit for such reclamation or harbour works and—
(c) The Minister or Ministers shall as soon as practicable—
(i) Endorse on every such application the date on which it was made; and
(ii) Refer every such application and all information relevant to it to the relevant regional council; and
(d) For the purposes of this Act (but without limiting section 399), the application shall be deemed to have been made to the appropriate regional council on the date that it is received by the regional council; and

(e) In the case of an application for approval to carry out harbour works in respect of which an Order in Council described in subsection (1) (a) has been made, the application shall not be notified in accordance with section 93.

(2) The granting of an application to which subsection (1) applies in accordance with this section—

(a) Constitutes the granting of a resource consent of the appropriate kind under this Act notwithstanding that all requirements of this Act in relation to applications for, and the granting of, resource consents may not have been complied with; and

(b) May be appealed against in accordance with this Act accordingly.

(3) A person who, if this Act had not been enacted, had—

(a) A right of appeal; or

(b) A right to make any application for review—

in respect of any application to which subsection (1) applies or any decision thereon may continue to exercise that right.

394. Transitional provisions relating to setting aside of esplanade reserves on reclamation—(1) Subject to subsection (2), on every application for a resource consent for a reclamation, the consent authority may impose a condition that—

(a) The esplanade reserve required to be set apart under section 246 (3) along the mark of mean high water springs of the sea, or along the margin of any lake, or along the bank of any river, to be shown on a plan of survey submitted for approval under section 245, be a width greater or less than 20 metres; or

(b) Section 246 (3) shall not apply in respect of land along the mark of mean high water springs of the sea, or along the margin of any lake, or along the bank of any river.

(2) Before including a condition described in subsection (1) in a resource consent for reclamation, the consent authority shall—

(a) In the case of a condition described in subsection (1) (a), be satisfied that the value of the esplanade reserve, in
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terms of the purposes specified in section 229, will not be diminished; and
(b) In the case of a condition described in subsection (1) (b), be satisfied that—
   (i) By reason of security, public safety, or other exceptional circumstances it would not be appropriate for section 246 (3) to apply; or
   (ii) The land has little or no value in terms of the purposes specified in section 229, or any value the land has in those terms can be adequately provided by other means; and
(c) Except where the resource consent is for a restricted coastal activity, obtain the consent of the Minister of Conservation.

395. Applications for works, etc., in coastal marine area—(1) A regional council that receives an application for a coastal permit in respect of any reclamation, the construction of any structure, or the undertaking of any harbour works or the removal of any stone, shingle, sand, boulders, silt, mud, shell, or other material within the meaning of the Harbours Act 1950 in respect of the coastal marine area shall forward a copy of the application to the Minister of Transport.

(2) The Minister of Transport shall, on or before the closing date for submissions under section 97, report to the regional council on any navigation related matters that the Minister considers relevant to the application, including any conditions which the Minister considers should be included in the consent for this purpose, and a failure to report on or before that date may be taken as an indication that the Minister has nothing to report.

(3) The regional council shall—
   (a) Ensure that a copy of the Minister’s report under subsection (2) is served on the applicant and every person who has made a submission on the application; and
   (b) Take the report into account in its consideration of the application.
(4) This section shall cease to have effect in respect of a region upon the date that a regional coastal plan for that region, prepared under this Act, becomes operative.

**396. Applications for marine farming in coastal marine area**—(1) A regional council that receives an application for a coastal permit in respect of marine farming within the meaning of the Marine Farming Act 1971 shall, as soon as practicable, forward a copy of the application to the Minister of Fisheries.

(2) The Minister of Fisheries shall, on or before the closing date for submissions under section 97, report to the regional council—

(a) On any matters that the Minister considers relevant to the application and any conditions which the Minister considers should be imposed, including any conditions relating to the compensation for the value of any improvements and stock payable by the applicant to the previous holder of any lease or licence granted under the Marine Farming Act 1971; and

(b) On any lease or licence that is granted under the Marine Farming Act 1971 and still in force in relation to any part of the coastal marine area in respect of which the application is made,—

and a failure to report on or before that date may be taken as an indication that the Minister has nothing to report.

(3) The regional council shall ensure that a copy of the Minister’s report under subsection (2) is served on the applicant and every person who has made a submission on the application.

(4) The regional council (or in the case of a restricted coastal activity, the committee set up under section 117 and the Minister of Conservation)—

(a) Shall take the report into account in its consideration of the application; and

(b) Shall not grant a coastal permit in respect of marine farming in relation to any part of the coastal marine area that is already the subject of a lease or licence granted under the Marine Farming Act 1971 unless the lessee or licensee consents.

(5) This section shall cease to have effect in respect of a region upon the date that a regional coastal plan for that region, prepared under this Act, becomes operative.
397. Existing applications for marine farming leases—
(1) Where, before the date of commencement of this Act, an application has been made under section 5 of the Marine Farming Act 1971 and—
   (a) On or before the 7th day of May 1991, the applicant has, in accordance with section 6 of that Act, published notice of the application; or
   (b) An objection under section 6 of that Act has been referred to the Fisheries Authority under section 7 (1A) of that Act at any time prior to the date of commencement of this Act; or
   (c) An offer of a lease or licence has been made under section 8 (1) of that Act, but has not yet been accepted—then—
      (d) The application shall be determined under the Marine Farming Act 1971 as if this Act had not been enacted; and
      (e) The execution (within the meaning of section 8 (4) of that Act) of any lease or licence shall entitle the applicant to a lease or licence under that Act; and
      (f) Section 426 (1), (4), and (5) shall apply to every such lease, once executed, accordingly.

(2) Except as provided in subsection (1) where, before the date of commencement of this Act, an application has been made under section 5 of the Marine Farming Act 1971, the application shall be deemed to be an application for a coastal permit for the activity to which the application relates and the Minister of Fisheries shall, as soon as practicable after the date of commencement of this Act,—
   (a) Endorse on each such application the date on which it was made; and
   (b) Refer to the relevant regional council each such application and all information relevant to it, including—
      (i) Advice as to progress made in respect of the application, including—
         (A) Whether or not the application has been publicly notified in accordance with section 6 of the Marine Farming Act 1971; and
         (B) Whether or not the period for making objections to the application had closed before the date of commencement of this Act; and
(ii) All objections to the application that have been made in accordance with section 6 of that Act and which have not been withdrawn, other than those which have not been upheld under section 7 of that Act.

(3) Where an application is referred to a regional council under subsection (2) then—

(a) For the purposes of section 88 (but without limiting section 399), the application shall be deemed to be an application for a coastal permit made by the applicant on the date that it is received by the relevant regional council; and

(b) The application shall not be notified in accordance with section 93 where, in accordance with subsection (2)(b), the regional council is advised that the application has been publicly notified in accordance with section 6 of the Marine Farming Act 1971, and—

(i) The period for making objections to the application had closed before the date of commencement of this Act; or

(ii) While the period for making objections to the application had not closed before the date of commencement of this Act, no objections had been received and it was appropriate in the circumstances for the application not to be notified in accordance with section 93; and

(c) Any objection to the application that has been made in accordance with section 6 of that Act and which has not been withdrawn, other than those which have not been upheld under section 7 of that Act, shall be deemed to be a submission made under section 96; and

(d) The provisions of this Act, including section 396, shall apply accordingly.

(4) The granting of an application to which subsection (2) applies in accordance with this section—

(a) Constitutes the granting of a coastal permit under this Act notwithstanding that all requirements of this Act in relation to applications for, and the granting of, coastal permits may not have been complied with; and

(b) May be appealed against in accordance with this Act accordingly.

(5) A person who, if this Act had not been enacted, had—
(a) A right of appeal; or

(b) A right to make any application for review—
in respect of any application to which subsection (2) applies or
any decision thereon may continue to exercise that right.

398. Regional councils not to accept applications for
coastal permits in areas notified by Minister of
Fisheries—(1) As soon as practicable after the date of
commencement of this Act, the Minister of Fisheries shall give
notice to every regional council of any applications made under
section 5 of the Marine Farming Act 1971 in respect of any part
of the coastal marine area for that region which are to be
determined by that Minister in accordance with section 397 (1).

(2) Notwithstanding anything to the contrary in this Act, in
respect of any application to which any such notice relates,
during the period from the date of receipt of the notice until
the date the Minister notifies the regional council that a lease or
licence under the Marine Farming Act 1971 has been executed
or the application has been declined, no application for a
coastal permit to occupy (within the meaning of section
12 (4) (a)) any land of the Crown in the coastal marine area to
which that application relates shall be accepted or determined
by the regional council.

399. Applications received on same day—Where—

(a) In accordance with section 389 (4) (b) (ii) or section 393 (1)
(c) (ii) or section 397 (2) (b), a consent authority
receives, on the same date, 2 or more applications; and

(b) Those applications do not relate to the same proposal and
were not made by the same person; and

(c) The granting of one of those applications would mean
that it would be likely that any other of those
applications would not be granted or, if granted,
would be granted on conditions that would not
otherwise be imposed and which would be less
favourable to the interests of the relevant applicant—
the consent authority shall process and determine those
applications under this Act in a sequence commencing with the
application which, in accordance with any of those provisions,
is endorsed with the earliest date, and ending with the
application so endorsed with the latest date, and this Act shall
apply accordingly.
400. Applications under Marine Farming Act 1971 for prohibited anchorages, etc.—(1) Where, immediately before the date of commencement of this Act, an application has been made under section 28 (1) of the Marine Farming Act 1971 for permission to declare any specified part of a licensed area to be a prohibited anchorage or a prohibited navigation area and that application had not been determined—

(a) The application shall be determined under the Marine Farming Act 1971 as if this Act had not been enacted; and

(b) If the controlling authority grants the application, then notwithstanding the repeal of section 28 of that Act, but subject to subsection (3), such prohibition shall remain in force and the provisions of subsections (4) to (8) of the said section 28 shall continue to apply to that prohibition as if this Act had not been enacted.

(2) Where, immediately before the date of commencement of this Act, any part of a lease or licence under the Marine Farming Act 1971 has been declared to be a prohibited anchorage or a prohibited navigation area under section 28 (4) of that Act and such prohibition remains in force, then notwithstanding the repeal of section 28 of that Act, but subject to subsection (3), such prohibition shall remain in force and the provisions of subsections (4) to (8) of the said section 28 shall continue to apply to that prohibition as if this Act had not been enacted.

(3) After the date of commencement of this Act, those functions that were exercisable by a controlling authority under section 28 (5) of the Marine Farming Act 1971 before the repeal of that subsection by this Act may continue to be exercised by any regional council in accordance with that subsection as if that subsection remained in force, but the regional council shall not make any declaration under that subsection without the prior consent of the Minister of Fisheries given with the concurrence of the Minister of Transport.

401. Conditions of deemed resource consents—Where the conditions of any permission that is deemed to be a resource consent by virtue of any of sections 383 to 387, or of any mining privilege that is a deemed permit under section 413, provide that a Minister of the Crown, a local authority, or any other person may exercise any powers or discretions in relation to the permission (other than as the holder thereof), from the date of commencement of this Act those powers or
discretions shall be exercised by the appropriate consent authority and not by the Minister, local authority, or person.

Subdivision and Development

402. Existing subdivision approvals—(1) Nothing in section 11 or Part X shall apply to any subdivision in respect of which there is in force immediately before the commencement of this Act—

(a) An approval under section 279 of the Local Government Act 1974 of a scheme plan; or

(b) An approval under section 305 of that Act of a survey plan.

(2) Parts XX and XXI of the Local Government Act 1974 shall continue to apply to any subdivision referred to in subsection (1) as if this Act had not been enacted.

(3) For the purposes of subsection (1), an approval under section 279 of the Local Government Act 1974 shall be deemed to be in force notwithstanding—

(a) That there exists a right of objection under section 299 of that Act or a right of appeal under section 300 or section 301 of that Act; or

(b) That any such right of objection or that any such right of appeal has been exercised by any person.

403. Existing objections and appeals in relation to subdivisions—(1) Nothing in section 11 or Part X shall apply to any subdivision in respect of which, before the date of commencement of this Act,—

(a) The territorial authority has refused to approve a scheme plan of subdivision under sections 274 and 279 (1) (f) of the Local Government Act 1974; and

(b) A right of objection under section 299 of that Act, or a right of appeal under section 300 of that Act, has been exercised by any person in respect of that refusal.

(2) Parts XX and XXI of the Local Government Act 1974 shall continue to apply to any subdivision referred to in subsection (1) as if this Act had not been enacted.

404. Existing applications for approval—Where an application for approval of a scheme plan of subdivision has been made under section 275 of the Local Government Act 1974 before the commencement of this Act, and the territorial authority has not exercised its powers under section 279 of that
Act in relation to the scheme plan, the application shall be deemed—

(a) To be an application for a subdivision consent under this Act and shall be dealt with accordingly; and
(b) To have been received by the territorial authority on the date of commencement of this Act.

405. Transitional provisions for subdivisions in district plans—(1) Subject to subsection (2), where on the date of commencement of this Act a district plan or a proposed district plan authorises a subdivision as a permitted activity, that activity shall, notwithstanding anything to the contrary in section 374, be deemed to be a controlled activity.

(2) Subject to subsections (3) and (4), on every application for a subdivision consent, a territorial authority may impose a condition that—

(a) The esplanade reserve required to be set aside under section 230 of this Act or section 345 (3) of the Local Government Act 1974 along the mark of mean high water springs of the sea, or along the margin of any lake, or along the bank of any river, shall be reduced to any width:

(b) Section 230 of this Act and section 345 (3) of the Local Government Act 1974 shall not apply in respect of land along the mark of mean high water springs of the sea, or along the margin of any lake, or along the bank of any river, to which the application relates.

(3) Before including a condition described in subsection (2) in a subdivision consent, the territorial authority shall—

(a) In the case of a condition described in subsection (2) (a), be satisfied that the value of the esplanade reserve, in terms of the purposes specified in section 229, will not be diminished; and
(b) In the case of a condition described in subsection (2) (b), be satisfied that—

(i) By reason of security, public safety, minor boundary adjustment, or other exceptional circumstances, it would not be appropriate for section 230 of this Act or section 345 (3) of the Local Government Act 1974 to apply; or
(ii) The land has little or no value in terms of the purposes specified in section 229; or
(iii) Any value the land has in those terms can be adequately provided by other means; and
(c) Obtain the consent of the Minister of Conservation.
(4) A territorial authority may at any time—
   (a) Change, in accordance with section 73 (2), a district plan
       constituted under section 373:
   (b) Amend a proposed district plan in accordance with the
       First Schedule—
       so as to exclude or modify the application of this section to the
       district plan.

(5) This section shall cease to have effect in relation to a
    district—
   (a) On the date on which the district plan becomes due for
       review in accordance with section 377; or
   (b) On the third anniversary of the date of commencement of
       this Act—
       whichever is the later.

406. Grounds of refusal of subdivision consent—
Notwithstanding anything to the contrary in Parts VI or X, a
territorial authority—
   (a) Shall not grant a subdivision consent if it considers that
       either—
       (i) The land in respect of which the subdivision is
           proposed is not suitable; or
       (ii) The proposed subdivision would not be in the
           public interest:
   (b) May refuse to grant a subdivision consent if in the case of
       any allotment in respect of which a subdivision
       consent is sought, adequate provision has not been
       made or is not practicable—
       (i) For stormwater drainage; or
       (ii) For the disposal of sewage; or
       (iii) Except in the case of any allotment to be used
           solely or principally for rural purposes, for the supply
           of water or electricity.

407. Subdivision consent conditions—(1) Where an
application for a subdivision consent is made in respect of land
for which there is no district plan, or where the district plan
does not include relevant provisions of the kind contemplated
by section 108 (1) (a) or 220 (1) (a), the territorial authority may
impose, as a condition of the subdivision consent, any condition
that could have been imposed under sections 283, 285, 286,
291, 321A, or 322, as the case may be, of the Local Government
Act 1974 if those sections had not been repealed by this Act.
(2) For the purposes of subsection (1), every reference in sections 283, 285, 286, 291, 321A, and 322 of the Local Government Act 1974—

(a) To an application for the approval of a scheme plan, shall be deemed to be a reference to an application for a resource consent; and

(b) To an allotment on a scheme plan, shall be deemed to be a reference to the allotments in respect of which a subdivision consent is sought.

408. Existing approvals for unit plans, cross lease plans, and company lease plans—Nothing in section 11 or Part X shall apply—

(a) To the deposit of a unit plan, or to the issue of a certificate of title for any unit on such a plan, where, before the date of commencement of this Act, a certificate has been given in respect of the plan under section 5 (1) (g) of the Unit Titles Act 1972 or section 5 (3) (c) of the Unit Titles Amendment Act 1979:

(b) To the deposit of a plan to give effect to the registration of a cross lease, or to the issue of a certificate of title for a cross lease in respect of a building or part of a building shown on a plan, where, before the date of commencement of this Act, a certificate has been given in respect of the plan under section 314 of the Local Government Act 1974:

(c) To the deposit of a plan to give effect to the grant of a company lease, or to the registration or issue of a certificate of title for a company lease in respect of a building or part of a building shown on a plan, where the plan is approved by the Chief Surveyor before the date of commencement of this Act.

409. Financial contributions for developments—

(1) Subject to section 410, where an application for a resource consent for a development is made in respect of land for which there is no district plan, or where the district plan does not include provisions of the kind contemplated by section 108 (1) (a), the territorial authority may impose, as a condition of the consent,—

(a) Any condition described in any of sections 283, 289, 291, 292, 321A, or 322 of the Local Government Act 1974 that, by virtue of section 281 or section 294B of that Act, could have been imposed in respect of a
development if those sections had not been repealed by this Act:

(b) Any requirement that could have been imposed in respect of a development under section 294 of the Local Government Act 1974 (if that section had not been repealed by this Act) to pay a reserves contribution or to set aside, as public reserve, any area of land.

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


(i) To an application for the approval of a scheme plan, shall be deemed to be a reference to an application for a resource consent; and

(ii) To the approval of a scheme plan, shall be deemed to be a reference to a grant of a resource consent; and

(b) Every reference in section 294 of the Local Government Act 1974 to a requirement under section 293 of that Act to notify the Council of a proposed development, shall be deemed to be a reference to an application for a resource consent.

(3) For the purposes of this section and sections 410 and 411, "development" has the same meaning as in section 271A of the Local Government Act 1974 before its repeal by this Act.

410. Existing developments—Parts XX and XXI of the Local Government Act 1974 shall continue to apply to any development that, before the commencement of this Act, is notified to a territorial authority under section 293 (1) of the Local Government Act 1974 as if this Act had not been enacted.

411. Restriction on imposition of conditions as to financial contributions—A consent authority shall not impose a condition of the type contemplated by section 108 (1) (a) on any resource consent where a development levy within the meaning of section 270 of the Local Government Act 1974 (before its repeal by this Act) has been fixed and is paid or payable in respect of the activity in respect of which the application for the resource consent is made.

412. Expiry of certain sections—Sections 392, 402, 406, 407, 408, and 409 shall expire on the third anniversary of the date of commencement of this Act.
Current Mining Privileges Relating to Water

413. Current mining privileges to become deemed permits—(1) Except as provided in subsections (2) to (10), every—

(a) Current mining privilege within the meaning of section 2 of the Water and Soil Conservation Amendment Act 1971; and

(b) Right granted or authorised under the Water and Soil Conservation Act 1967 in substitution for a current mining privilege, on an application made by the holder of that privilege—

that is in force immediately before the date of commencement of this Act (in this section and in sections 414 to 417 called a "mining privilege") shall be deemed to be—

(c) A water permit, if it authorises something that would otherwise contravene section 14; or

(d) A discharge permit, if it authorises something that would otherwise contravene section 15—

granted by the appropriate consent authority under this Act on the same conditions (including those set out in any enactment whether or not repealed or revoked by this Act) and the provisions of this Act (other than sections 128 to 133) shall apply accordingly. Every such permit is called a "deemed permit" in this section and in sections 414 to 417.

(2) Without limiting subsection (1), every deemed permit resulting from a mining privilege shall be deemed to include, as conditions of the permit, such of the provisions of sections 4 to 9, 11, 13, 14, 16, and 23 (1) (a) and (2) of the Water and Soil Conservation Amendment Act 1971 as applied to the mining privilege immediately before the date of commencement of this Act.

(3) Every deemed permit resulting from a mining privilege shall be deemed to include a condition to the effect that it finally expires on the thirtieth anniversary of the date of commencement of this Act.

(4) Sections 12 and 30 to 32 of the Water and Soil Conservation Amendment Act 1971 shall apply to deemed permits as if—

(a) That Act had not been repealed; and

(b) Those permits were still current mining privileges under that Act; and

(c) Every reference to the Board were a reference to the appropriate regional council.
(5) Notwithstanding section 122, every deemed permit shall be deemed to be a chattel interest in land and—
(a) Subject to sections 136 and 137, may be sold, encumbered, transmitted, seized under writ of execution or warrant, or otherwise disposed of, as fully as a chattel interest in land; but
(b) No dealing or disposition of a kind referred to in paragraph (a) shall have effect until written notice of the dealing or disposition is received by the appropriate regional council.

(6) No enforcement order may be made under section 319 against the holder of any deemed permit in respect of any activity to which the permit relates except upon an application under section 316 made by—
(a) The relevant regional council; or
(b) A Minister of the Crown.

(7) The holder of a deemed permit may, in order to replace that permit, apply at any time under Part VI for another permit in respect of the activity to which the deemed permit relates.

(8) Subject to subsection (9), the holder of a deemed permit may transfer the holder’s interest in the permit in accordance with sections 136 and 137.

(9) The following provisions apply to a permit that is deemed by subsection (1) (c) to be a water permit:
(a) Notwithstanding section 136 (2) (b) (i), no transfer of the whole or any part of a deemed permit may take place except upon an application made under section 136 (4); and

(b) Notwithstanding anything to the contrary in section 136 (5), the interest or part transferred shall be deemed to be a new permit granted under this Act, and—
(i) Shall be subject to section 122 (which describes the nature of a resource consent) and shall not be a chattel interest in land and shall not confer on its holder any rights over land; and
(ii) Shall be subject to sections 128 to 132 (which relate to the review of consent conditions); and
(iii) Shall only be transferable in accordance with section 136; and

(c) In addition to the matters set out in section 136 (4) (b), in considering an application to transfer the whole or part of a deemed permit to another site the regional council shall have regard to the need to maintain an equivalent priority of right to the water.
Section 18 of the Water and Soil Conservation Amendment Act 1971 shall continue to apply in respect of those deemed permits to which it applied before the date of commencement of this Act as if this Act had not been enacted.

414. Deemed permits to be subject to regional rules—
(1) A regional council may, in accordance with section 65, include a rule in a regional plan for the purpose of securing minimum instream flow which has the effect of—
(a) Restricting the amount of water which the holder of a particular deemed permit may—
   (i) Take, use, dam, or divert; or
   (ii) Discharge, or discharge a contaminant into; or
(b) Prohibiting the holder of a particular deemed permit from—
   (i) Taking, using, damming, or diverting water; or
   (ii) Discharging water, or a contaminant into water,—
   if—
   (c) The holder of that deemed permit is—
      (i) The relevant regional council; or
      (ii) A person who requests the regional council to include such a rule in a plan; and
   (d) That deemed permit is to be surrendered when the plan including the rule becomes operative; and
   (e) The regional council is satisfied that the effect of the rule on the exercise of the rights given by every other deemed permit will not exceed the effect that exercising to the full the rights given by the particular deemed permit that is to be surrendered would otherwise have had.

(2) Subsection (1) applies—
(a) Notwithstanding any other provisions of this Act; and
(b) Notwithstanding the conditions of the deemed permit which will be surrendered once the plan including the rule becomes operative.

(3) If a rule of the kind referred to in subsection (1) is included in a plan, the deemed permit shall be deemed to have been surrendered on the day on which the rule becomes operative, notwithstanding any other enactment or rule of law.

(4) Notwithstanding sections 65 (5) and 79 (3) (which deal with the change and review of regional plans), once a regional plan including a rule of the kind referred to in subsection (1) becomes operative, then during the period described in subsection (5) the plan shall remain operative and no change
may be made to the plan that has the effect of diminishing or removing any prohibition or restriction imposed by the rule.

(5) For the purposes of subsection (4), the period commences on the date on which the plan including the rule becomes operative and ends with the date on which the deemed permit would have expired if it were not surrendered, which end date shall be specified in the plan.

(6) Every regional council shall—
(a) When giving public notice, in accordance with the First Schedule, of a proposed plan including a rule of the kind referred to in subsection (1), identify the deemed permit which will be surrendered once the plan including the rule becomes operative; and
(b) Serve on each holder of a deemed permit which will be affected by the rule if it becomes operative, a notice—
(i) Identifying the deemed permit which will be surrendered once the plan including the rule becomes operative; and
(ii) Stating the proposed rule and the effect of the rule and this section on the holder's permit; and
(iii) Stating the effect of section 416 (which relates to compensation).

(7) In this section, "deemed permit" includes part of a deemed permit.

415. Acquisition of deemed permits—(1) Notwithstanding sections 136 and 137, a regional council may take, purchase, or acquire the whole or part of any deemed permit—
(a) As a public work under the Public Works Act 1981; or
(b) By agreement or otherwise.

(2) Notwithstanding section 413 (9) (b) (i), for the purposes only of the Public Works Act 1981, this section, and section 416 (4), a deemed permit that has been transferred to a new site shall be deemed to continue to be a chattel interest in land, and it shall be sufficient identification of the interest in land created or deemed to be so created by the deemed permit to describe it as the whole of the interest created by the permit, or to use the description set out in the permit.

416. Compensation—(1) No compensation may be claimed for any loss, damage, or injurious affection resulting from the operation of any of subsections (1) to (7) of section 413.

(2) Notwithstanding section 85 but except as provided in subsection (3), the holder of a deemed permit—
(a) Taken or acquired in whole or in part under section 415;
or
(b) Whose estate or interest in land is injuriously affected by,or who suffers any damage resulting from, a regional rule of the kind referred to in section 414—
shall be entitled to compensation from the regional council for such taking, acquisition, injurious affection, or damage.

(3) When determining for the purposes of subsection (2) (b) the amount of any loss, damage, or injurious affection suffered by a holder of a deemed permit, the entitlement of a holder of any other deemed permit that is surrendered at the time the rule becomes operative shall be regarded as being used in full throughout the remainder of the duration of the first-mentioned permit.

(4) Except as provided in subsection (3),—
(a) Claims for compensation under this section or under section 415 shall be made and determined in accordance with the Public Works Act 1981; and
(b) When determining the amount of compensation payable under the Public Works Act 1981 for any loss, damage, or injurious affection suffered, or for the taking or acquisition of the deemed permit,—
(i) For the purposes of section 62 of that Act in the case of a claim for injurious affection or damage resulting from a regional rule of the kind referred to in section 414, the specified date shall be the date the regional rule becomes operative; and
(ii) For the purposes of that Act, the deemed permit shall be deemed to be due to expire on the thirtieth anniversary of the specified date.

417. Permits over land other than that of holders to be produced in Land Transfer Office—(1) Where, immediately before the date of commencement of this Act, a mining privilege that is deemed to be a permit under section 413 conferred on its holder rights over land in respect of which the holder is not the owner, then the holder of the deemed permit—
(a) May continue to exercise those rights, and the provisions of this section shall apply accordingly; and
(b) May, at any time, obtain from the relevant regional council, for the purpose of registration against any certificate of title, lease, licence to occupy, or provisional register registered under the Land Transfer Act 1952, a certificate specifying the rights
which the holder of that permit has in respect of that land by virtue of paragraph (a).

(2) Every such certificate shall be in writing and—

(a) Have affixed to it the common seal of the consent authority; and

(b) Specify the rights which the holder of the permit has by virtue of subsection (1) (a) and the parcel or parcels of land affected (including the file reference); and

(c) Have endorsed on the certificate or refer to a diagram or plan attached to the certificate (which need not be a survey plan), showing the course of any race and, as the case may be, the site of any dam and the boundaries of any part of the land which the permit specifies as being affected except that, where it is not practicable to show the true course or site or part of the land, it shall be indicated as nearly as possible, and, until the contrary is proved, the course or site or part of the land so indicated shall be deemed to be the true course, site, or boundaries, as the case may be.

(3) No action shall lie against the Crown under Part XI of the Land Transfer Act 1952 by reason of any certificate registered under this section not indicating the true course of any race, the site of any dam, or boundary of any part of the land.

(4) Every such certificate shall be deemed—

(a) To be an instrument capable of registration under the Land Transfer Act 1952 and, when so registered, to create in favour of the permit holder an interest in the land in respect of which it is registered, within the meaning of section 62 of that Act; and

(b) When so registered, to be binding on any registered proprietor of an estate in fee simple or leasehold or on any registered licensee, and on any subsequent mortgagee of any land, or of any interest in any land, affected by the certificate notwithstanding the expiration, lapsing, cancellation, surrender, suspension, or transfer of the deemed permit to which it relates.

(5) Without limiting subsection (1), any certificate registered under this section may be transferred by the holder of the deemed permit to the person to whom the permit is transferred under section 413 (5), by means of a memorandum of transfer to be registered under the provisions of the Land Transfer Act 1952.
(6) Where any certificate is produced to the District Land Registrar under this section, the District Land Registrar shall enter on every certificate of title, lease, licence to occupy, provisional register, or other instrument of title registered or filed in the District Land Registrar's office and relating to that land, the particulars of the deemed permit, including the file reference.

(7) Nothing in the Land Transfer Act 1952 shall limit or affect any right, title, or interest held under a deemed permit over land of which the holder of the permit is not the owner before the certificate has been registered and particulars have been entered by the District Land Registrar on the instrument of title affected in accordance with subsection (6).

Existing Uses

418. Certain existing permitted uses may continue—

(1) For the purpose of this Act, paragraphs (c) and (d) of section 15 (1) do not apply in respect of—

(a) Any crematorium established in accordance with the provisions of the Burial and Cremation Act 1964 or any corresponding provision of any former enactment; or

(b) Any process specified or described in Part C of the Second Schedule to the Clean Air Act 1972; or

(c) Any use of premises for the storage, transfer, treatment, or disposal of waste materials or for other waste-management purposes, or for composting organic materials; or

(d) Any factory farm—within a region until the third anniversary of the date of commencement of this Act unless a regional plan for that region sooner provides otherwise.

(2) For the purpose of this Act, paragraphs (b) and (c) of section 14 (1) do not apply in respect of any use or taking of geothermal energy for any purpose authorised under section 6 or section 9 (1) (b) or section 9 (1) (c) of the Geothermal Energy Act 1953 within a region until the third anniversary of the date of commencement of this Act unless a regional plan for that region sooner provides otherwise.

(3) For the purposes of this Act, section 18 (1) does not apply in respect of any activity lawfully being carried out in relation to the bed of any river or lake until a regional plan provides otherwise.

(4) Without limiting subsection (2), where, immediately before the date of commencement of this Act,—
(a) Heat or energy from geothermal water; or
(b) Heat or energy from the material surrounding any geothermal water—
was being lawfully taken or used, and such taking or use did not require any licence, permit, or other authorisation under the Geothermal Energy Act 1953, then, notwithstanding paragraphs (a) and (b) of section 14 (1), such taking or use may be continued until a regional plan provides otherwise.

(5) For the purposes of this Act, where, immediately before the date of commencement of this Act, any person holds any permit or dispensation granted under—
(a) A bylaw made under section 149 of the Soil Conservation and Rivers Control Act 1941 (relating to watercourses) or section 150 of that Act (relating to land utilisation); or
(b) A bylaw made under section 35A of the Water and Soil Conservation Act 1967 (relating to dam construction); or
(c) A bylaw made under section 4 of the Water and Soil Conservation Amendment Act 1973 (relating to bores and underground water)—
that permit or authorisation shall not be deemed to be a resource consent but that person may, subject to its conditions, continue to undertake the activity authorised by that permit or authorisation within a region until whichever is the sooner of—
(d) The date on which a regional plan for that region provides otherwise; or
(e) The date on which the permit or authorisation expires.

(6) Notwithstanding section 12 where, immediately before the date of commencement of this Act,—
(a) There is in force—
(i) Any licence, permit, Order in Council, or approval which is deemed by section 384 (1) to be a coastal permit; or
(ii) Any lease described in section 425 (1) or any lease or licence described in section 426 (1); and
(b) Any activity was or was proposed to be carried out by or on behalf of the holder of that coastal permit, lease, or licence and such activity could have been lawfully commenced and continued in the coastal marine area under section 90 or section 102A (1) or section 108 of the Town and Country Planning Act 1977—
such activity may be continued or commenced at any time after the date of commencement of this Act and continued until—
(c) The expiry of the coastal permit, lease, or licence; or
(d) Where section 124 applies, the determination of any application made for a new coastal permit to replace any such coastal permit, lease, or licence and the determination of any appeals in respect of that application; or
(e) A rule is included in a regional coastal plan prepared under this Act which provides that the activity is a controlled activity, a discretionary activity, a non-complying activity, or a prohibited activity—whichever occurs last.

(7) Except as provided in subsection (6), section 12 shall not apply to any activity being carried out on the date of commencement of this Act in the coastal marine area under section 90 or section 102A (1) or section 108 of the Town and Country Planning Act 1977 until the third anniversary of the date of commencement of this Act, unless a rule in a regional coastal plan prepared under this Act sooner provides that the activity is a controlled activity, a discretionary activity, a non-complying activity, or a prohibited activity.

419. Certain discharges affected by water classifications—(1) Where—
(a) Provisions of a final water classification of the kind referred to in section 368 (2) (b) are deemed to constitute the provisions of a regional plan under section 368 (1) or a regional coastal plan under section 370 (1); and
(b) Immediately before the date of commencement of this Act, in respect of any receiving water to which those provisions apply, any discharge of waste within the meaning of the Water and Soil Conservation Act 1967 was authorised to be continued under section 26k (2) of that Act—any person so authorised shall, subject to subsection (2), continue to be so authorised for the same period, to the same extent, and subject to the same conditions, pending that person's application for a resource consent to discharge such waste into the receiving water and the determination of any appeals in respect of that application.

(2) Any person authorised under subsection (1) to continue any discharge of waste shall cease to be so authorised upon the second anniversary of the date of commencement of this Act unless by that anniversary that person has made an application
under this Act to the relevant regional council for a resource consent to discharge such waste.

(3) This section shall apply notwithstanding anything to the contrary in this Act.

**420. Designations and requirements continued**—

(1) Where, immediately before the date of commencement of this Act,—

(a) A designation is included in an operative district scheme or combined scheme under section 36 (8), section 43, or section 118 of the Town and Country Planning Act 1977 or the corresponding provisions of any former enactment; or

(b) A requirement has been made under section 118 of that Act, and a territorial authority has an obligation under subsection (9) of that section to include the requirement in a district scheme or combined scheme but has not done so,—

the designation or requirement shall, to the extent that it has effect within a coastal marine area, cease to have such effect but shall be deemed to be a coastal permit for the public work or project or work to which the designation or requirement relates which takes effect on the date of commencement of this Act, and the provisions of this Act shall apply accordingly.

(2) Except as provided in subsection (1), where, immediately before the date of commencement of this Act,—

(a) A designation is included in an operative district scheme or combined scheme under section 36 (8), section 43, or section 118 of the Town and Country Planning Act 1977 or the corresponding provisions of any former enactment, the designation shall be deemed to be a designation included in the relevant district plan under section 175:

(b) A requirement has been made under section 118 of that Act, and a territorial authority has an obligation under subsection (9) of that section to include the requirement in a district scheme or combined scheme but has not done so, the territorial authority shall, as soon as reasonably practicable and without further formality, include a designation in respect of that requirement in the relevant district plan in accordance with section 175,—

and the person responsible for the designation shall be deemed to be a requiring authority and the provisions of this Act shall apply accordingly.
(3) For the purposes of section 184, every designation referred to in subsection (2) (a) shall be deemed to have been included in the district plan on the date of commencement of this Act.

(4) Section 125 of the Town and Country Planning Act 1977 (which requires outline plans to be submitted to a territorial authority before works on designated land are constructed) shall continue to apply to every designation referred to in subsection (2) (a) or (2) (b) until whichever is the earlier of—
(a) The date on which the relevant district plan reviewed under section 377 then becomes operative; or
(b) The date on which the relevant district plan is changed in accordance with section 73 (2) so as to exclude the application of this subsection to the plan.

(5) Where a designation is included in a district plan under subsection (2) (a) or (2) (b) in respect of a project or work that is not a public work, the designation shall remain in force until whichever is the earlier of—
(a) The date on which the review of the relevant district plan under section 377 is notified; or
(b) The date on which the designation is removed from the district plan under section 182,—
and shall then lapse unless the person responsible for the project or work, after having been approved as a requiring authority in respect of that project or work under section 167, gives notice to the local authority in accordance with section 183 in respect of the designation.

(6) The person responsible for a project or work referred to in subsection (5) may, in accordance with section 167, apply to the Minister for approval as a requiring authority in respect of that project or work.

(7) Except as provided in subsection (1), every requirement made under section 43 or section 118 of the Town and Country Planning Act 1977 which, immediately before the date of commencement of this Act, has neither been provided for in the relevant district scheme nor been withdrawn or revoked—
(a) To the extent that the requirement has effect within the coastal marine area, shall be deemed to be withdrawn:
(b) Except as provided in paragraph (a), shall be deemed to be a requirement that has been notified under section 168, and section 422 shall apply to it.

(8) Subsection (7) applies whether or not the requirement is the subject of any proceedings before a territorial authority, the Planning Tribunal, or any other Court.
421. Protection notices to become heritage orders—
(1) The following provisions apply in respect of every protection notice issued under section 36 of the Historic Places Act 1980 which, immediately before the commencement of this Act, is included in an operative district scheme or combined scheme under section 125B (10) of the Town and Country Planning Act 1977, or the corresponding provisions of any former enactment, namely:

(a) To the extent that the notice has effect within the coastal marine area, the notice shall be deemed to be cancelled:

(b) Except as provided in paragraph (a), the notice shall be deemed to be a heritage order included in the relevant district plan, and the provisions of this Act shall apply accordingly.

(2) The following provisions apply in respect of every protection notice issued under section 36 of the Historic Places Act 1980 which, immediately before the date of commencement of this Act, has not been included in an operative district scheme or combined scheme under section 125B (10) of the Town and Country Planning Act 1977, namely—

(a) To the extent that the notice has effect within a coastal marine area, the notice shall be deemed to be withdrawn:

(b) Except as provided in paragraph (a),—

(i) In a case where a territorial authority has an obligation under section 125B (10) of that Act to include the notice in an operative district scheme or combined scheme but has not done so, the territorial authority shall, as soon as reasonably practicable and without further formality, include a heritage order in respect of the notice in the relevant district plan in accordance with section 192:

(ii) In any other case, the notice shall be deemed to be a requirement for a heritage order that has been notified under section 189, and section 422 shall apply to it.

(3) Subsection (2) (a) shall apply whether or not the notice is the subject of any proceedings before a territorial authority, the Planning Tribunal, or any other Court.

422. Procedure for requirements for designations and protection notices—(1) This section applies to requirements
and notices of the kinds referred to in sections 420 (7) (b) and 421 (2) (b) (ii).

(2) Where, before the date of commencement of this Act, a local authority has been notified of or served with a requirement or notice to which this section applies, and on the date of commencement of this Act, any hearing involved in the territorial authority’s consideration of the requirement or notice—

(a) Has commenced, the territorial authority shall proceed with that consideration and make its recommendation accordingly as if this Act had not been enacted:

(b) Has not commenced, the territorial authority shall deal with the requirement or notice as if it were a requirement for a designation or heritage order, as the case may be, and the provisions of this Act shall apply accordingly.

(3) Except as provided in subsection (2), a territorial authority that has been notified of or served with a requirement or notice to which this section applies shall, as soon as reasonably practicable after the date of commencement of this Act, decide whether the requirement or notice is to be dealt with after that date—

(a) In accordance with the Town and Country Planning Act 1977; or

(b) In accordance with this Act as if the requirement or notice were a requirement for a designation or heritage order, as the case may be; or

(c) Partly in accordance with that Act and otherwise in accordance with this Act,—

and any such decision shall be final and not subject to appeal to or review by any Court or the Planning Tribunal.

(4) When making a decision for the purposes of subsection (3), the territorial authority shall comply with any regulations and also shall have regard to any representations made to it by the person who made the requirement or gave the notice, or any other person, as to the appropriate manner of dealing with the requirement or notice.

(5) Every territorial authority that makes a decision under subsection (3) shall ensure that written notice of—

(a) The decision; and

(b) Anything that the person who made the requirement or gave the notice is required to do as a result of the decision—
is served as soon as reasonably practicable after the decision is made on every person (including the person who made the requirement or gave the notice) whom the territorial authority considers should receive notice.

(6) Any territorial authority's recommendation in respect of a requirement or a notice to which this section applies, made in accordance with this section, and any decision by—

(a) A Minister of the Crown or a local authority; or
(b) The New Zealand Historic Places Trust constituted under the Historic Places Act 1980—
in respect of that recommendation, shall have effect according to its tenor notwithstanding that all requirements of this Act in relation to designations and heritage orders and requirements therefor may not have been complied with, and any such decision may be appealed against in accordance with this Act accordingly.

(7) A person who, if this Act had not been enacted, has a right of appeal under section 118 (7) or section 125B (8) of the Town and Country Planning Act 1977 in respect of a decision on a requirement or a protection notice may continue to exercise that right.

(8) Any appeal to the Planning Tribunal—

(a) Under section 118 (7) of the Town and Country Planning Act 1977 in respect of a decision on a requirement; or
(b) Under section 125B (8) of that Act in respect of a decision on a protection notice; or
(c) Under subsection (7)—
shall be continued and completed—

(d) Where the appeal has been wholly or partly heard, as if the enactments repealed by this Act continued in force; and
(e) In every other case, as if the appeal had been commenced under this Act, which shall apply accordingly.

423. National water conservation orders—(1) A national water conservation order made under section 20d of the Water and Soil Conservation Act 1967, and in force immediately before the date of commencement of this Act, shall be deemed to be a water conservation order made on the same terms under section 214.

(2) Where, before the date of commencement of this Act, an application for a water conservation order has been made under section 20a of the Water and Soil Conservation Act 1967, and on the date of commencement of this Act—
(a) The application has not been publicly notified under section 20B of that Act, the application shall be deemed to be an application made on that date under section 201, and the provisions of this Act shall apply accordingly; or

(b) The application has been publicly notified under section 20B of that Act but, immediately before the date of commencement of this Act, the Minister was still considering the application, the Minister shall, having regard to the progress made in consideration of the application, as soon as reasonably practicable after the date of commencement of this Act, decide whether the application is to be dealt with after that date in accordance with—

(i) The provisions of the Water and Soil Conservation Act 1967 as if this Act had not been enacted; or

(ii) The provisions of that Act as if this Act had not been enacted, but having regard to the matters set out in sections 199 and 207 of this Act; or

(iii) This Act as if the application had been made under this Act,—

and shall ensure that written notice of the decision is served as soon as reasonably practicable on every person (including the applicant) whom the Minister considers should receive notice. Any such decision by the Minister shall be final and not subject to appeal to, or review by, any Court or the Planning Tribunal.

(3) Any person who, if this Act had not been enacted, would have had a right under section 20c (1) of the Water and Soil Conservation Act 1967 to make submissions on or an objection to a draft national water conservation order under section 20b (7) (a) or any decision under section 20b (7) (c) of that Act may continue to exercise that right.

(4) All inquiries by the Planning Tribunal under section 20c of the Water and Soil Conservation Act 1967 commenced before the date of commencement of this Act and not completed at that date, and all inquiries initiated by the lodging of submissions and objections and not commenced at that date, and all inquiries in respect of submissions or objections made after the date of commencement of this Act by virtue of subsection (3), shall be continued and completed in all respects as if the Water and Soil Conservation Act 1967 continued in force and this Act had not been enacted.
Miscellaneous Provisions

424. Savings as to bylaws—(1) Every bylaw described in section 368 (2) (e) that is in force immediately before the date of commencement of this Act shall, so far as it is not inconsistent with this Act, for all purposes be deemed to have been lawfully made by the regional council for the area to which the bylaw relates, and shall continue in force within that area until—

(a) The bylaw is publicly notified as a provision of a regional plan for the purposes of section 369 (2) in accordance with section 376; or

(b) The expiry of 2 years from the date of commencement of this Act—

whichever is the earlier, and shall then expire.

(2) Every bylaw made under the Harbours Act 1950, in respect of any area in the coastal marine area, by—

(a) Any Harbour Board (within the meaning of that Act) relating to any matters specified in paragraphs (4), (7), (34), (34A), (36), (37), (38), (41), (42), and (44) of section 232 of that Act; or

(b) Any public body (within the meaning of that Act) under section 8A of that Act—

and that is in force immediately before the date of commencement of this Act shall, so far as it is not inconsistent with this Act, be deemed to have been lawfully made by the regional council for the region to which the bylaw relates and shall continue in force within that area until the expiry of 2 years after the date of commencement of this Act, and shall then expire.

(3) Every bylaw made under the Harbours Act 1950 in respect of any area that is not within the coastal marine area by—

(a) Any Harbour Board (within the meaning of that Act) relating to any matters specified in paragraphs (4), (7), (34), (37), (38), (41), (42), and (44) of section 232 of that Act; or

(b) Any public body (within the meaning of that Act) under section 8A or section 165 (2) of that Act—

and that is in force immediately before the date of commencement of this Act shall, so far as it is not inconsistent with this Act, be deemed to have been lawfully made by the territorial authority for the area to which the bylaw relates and shall continue in force within that area until the expiry of 2 years after the date of commencement of this Act, and shall then expire.
(4) Except as provided in subsection (3), every bylaw made under section 165 or section 232 (36) of the Harbours Act 1950 and that is in force immediately before the date of commencement of this Act shall, so far as it is not inconsistent with this Act, be deemed to have been lawfully made by the regional council for the region to which the bylaw relates and shall continue in force within that area until the expiry of 2 years after the date of commencement of this Act, and shall then expire.

(5) Subject to subsection (6)—
(a) Every bylaw referred to in subsections (2) and (4) may from time to time be altered or revoked by the regional council; and
(b) Every bylaw referred to in subsection (3) may from time to time be altered or revoked by the territorial authority— for the region or area to which the bylaw relates, in the manner provided in section 681 of the Local Government Act 1974, as if the bylaw had been made by the regional council, or as the case may be, the territorial authority under that Act.

(6) The alteration under subsection (5) of any bylaw referred to in subsections (2), (3), and (4) shall not come into force until the alteration has been approved by the Minister of Conservation and the Minister of Transport, jointly, by notice in the Gazette.

(7) Sections 233, 234 (2), 235, 236, 237, and 239 of the Harbours Act 1950, so far as they are applicable and with all necessary modifications, shall continue to apply to those bylaws referred to in subsections (2), (3), and (4) as if the regional council or, as the case may be, the territorial authority, were the Harbour Board.

425. Leases, licences, and other authorities under Harbours Act 1950—(1) Every lease made under section 154 of the Harbours Act 1950 and in force immediately before the date of commencement of this Act shall, notwithstanding the amendment of that Act by this Act, continue in force after the date of commencement of this Act on the same conditions and with the same effect as if this Act had not been enacted; and all the provisions of that Act relating to any such lease or licence or conferring or imposing any right, power, privilege, function, duty, or liability on any party to any such lease or licence shall continue to apply in respect of that lease or licence accordingly.

(2) Notwithstanding anything to the contrary in this Act, section 124 shall apply to any lease described in subsection (1)
when that lease is due to expire as if every reference in that section to a resource consent or an original resource consent were a reference to that lease.

(3) Except as provided in section 384 (1)—

(a) Every licence or permit granted under section 146A or section 156 or section 162 or section 165 of the Harbours Act 1950; and

(b) Every Order in Council made under section 175 of that Act; and

(c) Every approval granted under section 178 (1) (b) of that Act—

shall, notwithstanding the amendment of that Act by this Act, continue in force after the date of commencement of this Act on the same conditions and with the same effect as if that Act had not been so amended.

426. Leases and licences executed under Marine Farming Act 1971—(1) Every lease or licence executed under section 8 of the Marine Farming Act 1971 and in force immediately before the date of commencement of this Act, and every such lease or licence executed under section 397 (1) shall, notwithstanding the amendment of that Act by this Act but subject to subsection (5), continue in force after the commencement of this Act on the same conditions and with the same effect as if this Act had not been enacted; and all the provisions of that Act relating to any such lease or licence or conferring or imposing any right, power, privilege, function, duty, or liability on any party to any such lease or licence shall continue to apply in respect of that lease or licence accordingly.

(2) Every permit granted under section 14A or section 14E of the Marine Farming Act 1971 and in force immediately before the date of commencement of this Act, shall, notwithstanding the amendment of that Act by this Act, continue in force after the date of commencement of this Act on the same conditions and with the same effect as if this Act had not been enacted.

(3) For the purposes of this Act, section 12 (2) does not apply in respect of anything authorised by a permit granted, under section 14E of the Marine Farming Act 1971, before or after the date of commencement of this Act.

(4) Notwithstanding the repeal of section 8A of the Marine Farming Act 1971, the provisions of that section shall, with all necessary modifications, apply to those leases and licences described in subsection (1) where the lease or licence holder makes an application for a coastal permit during the currency of the lease or licence to occupy (within the meaning of section
12 (4) (a)) any adjoining area immediately seaward of the leased or licensed area.

(5) Notwithstanding subsection (1)—

(a) On the date of commencement of this Act, the right of any lessee or licensee under section 22 of the Marine Farming Act 1971 to be offered any new lease or licence shall expire; and

(b) From the date of commencement of this Act, section 124 shall apply to those leases and licences described in subsection (1) when such lease or licence is due to expire as if every reference in the said section 124 to a resource consent or an original consent were a reference to such lease or licence.

427. Deemed transfer of powers to former public bodies—(1) This section shall apply notwithstanding anything to the contrary in section 33 or in any other enactment or rule of law.

(2) Where, before the date of commencement of this Act,—

(a) Any public body, or any 2 or more public bodies acting jointly, or any Harbour Board, were exercising any current function, power, or duty in respect of any bylaws conferred by the Harbours Act 1950 or by any Order in Council under section 8A or section 165 of that Act in relation to any part of the coastal marine area or waters covering that area; and

(b) The public body or public bodies or Harbour Board (as the case may be) were administering any bylaw in force under either of those sections—then, on the date of commencement of this Act, the relevant regional council shall be deemed to have transferred those functions, powers, and duties that are described in subsection (4) to the public body or public bodies or Harbour Board (as the case may be) for a period commencing on the date of commencement of this Act and ending on the 30th day of June 1992, and the public body or public bodies or Harbour Board (as the case may be) shall be deemed to have accepted the transfer.

(3) Where, before the date of commencement of this Act,—

(a) Any public body, or any 2 or more public bodies acting jointly, or any Harbour Board, were exercising any current function, power, or duty in respect of any bylaws conferred by the Harbours Act 1950 or by any Order in Council under section 8A or section 165 of that Act in relation to any river or lake; and
(b) The public body or public bodies or Harbour Board (as the case may be) were administering any bylaw in force under either of those sections—then, on the date of commencement of this Act, the relevant territorial authority shall be deemed to have transferred those functions, powers, and duties that are described in subsection (5) to the public body or public bodies or Harbour Board (as the case may be) for a period commencing on the date of commencement of this Act and ending on the 30th day of June 1992, and the public body or public bodies or Harbour Board (as the case may be) shall be deemed to have accepted the transfer.

(4) Subject to subsection (8), the regional council shall be deemed to have transferred to the relevant public body, public bodies, or Harbour Board under subsection (2)—

(a) The full power to do anything under every bylaw referred to in section 424 (2) and (4) (except the power to make, alter, or revoke any such bylaw); and

(b) The full power and duty to enforce every such bylaw—in the same manner and to the same extent as the relevant public body or public bodies were authorised to do so by Order in Council under section 8A or section 165 of the Harbours Act 1950 or, as the case may be, the relevant Harbour Board was authorised to do so under that Act before that Act was amended by this Act.

(5) Subject to subsection (8), the relevant territorial authority shall be deemed to have transferred to the relevant public body, public bodies, or Harbour Board under subsection (3)—

(a) The full power to do anything under every bylaw referred to in section 424 (3) (except the power to make, alter, or revoke any such bylaw); and

(b) The full power and duty to enforce every such bylaw—in the same manner and to the same extent as the relevant public body or public bodies were authorised to do so by Order in Council under section 8A or section 165 of the Harbours Act 1950 or, as the case may be, the relevant Harbour Board was authorised to do so under that Act before that Act was amended by this Act.

(6) Where, immediately before the date of commencement of this Act, any combined committee within the meaning of section 40A of the Town and Country Planning Act 1977 was exercising any function, power, or duty in respect of a combined scheme within the meaning of that section, then, on the date of commencement of this Act,—
(a) The relevant regional council shall be deemed to have transferred to the combined committee all of its functions, powers, and duties in relation to those provisions of the coastal plan deemed to be operative under section 370 that were formerly part of the combined scheme; and

(b) The relevant territorial authority shall be deemed to have transferred to the combined committee all of its functions, powers, and duties in relation to those provisions of the district plan deemed to be operative under section 373 that were formerly part of the combined scheme—other than the power to approve any changes to the plan.

(7) Where, immediately before the date of commencement of this Act,—

(a) Any proposed district scheme, maritime planning scheme, or combined scheme under the Town and Country Planning Act 1977, or change to or variation or review of any such scheme under that Act, has been publicly notified but is not yet operative; and

(b) Any such proposed scheme or change to or variation or review of any such scheme relates solely or in part to the whole or any part of the coastal marine area of a region—

then, subject to subsection (8), in respect of any such proposed scheme, change, variation, or review, or part thereof, on the date of commencement of this Act, the relevant regional council shall be deemed to have transferred all functions, powers, and duties that are described in section 378 other than—

(c) The approval of the relevant scheme or change; and

(d) Any decision to approve or to withdraw any such scheme or change—

to the territorial authority or combined committee (as the case may be) which, before the date of commencement of this Act, was responsible for such proposed scheme, change, variation, or review (and who shall be deemed to have accepted the transfer), for a period commencing on the date of commencement of this Act and ending on the date such scheme, change, variation, or review is completed and becomes operative in accordance with section 378 (1).

(8) The provisions of section 33, with all necessary modifications, shall apply to every transfer under subsection (2) or subsection (3) or subsection (6) or subsection (7) as if the transfer was made under that section and—
(a) In the case of a transfer made under subsection (2)—
   (i) The regional council shall continue to have the power to change or revoke that transfer; and
   (ii) The public body, public bodies, or Harbour Board (as the case may be) shall have the power to relinquish the transfer at any time:
(b) In the case of a transfer made under subsection (3)—
   (i) The territorial authority shall continue to have the power to change or revoke that transfer; and
   (ii) The public body, public bodies, or Harbour Board (as the case may be) shall have the power to relinquish the transfer at any time:
(c) In the case of a transfer made under subsection (6)—
   (i) The regional council shall continue to have the power to change or revoke that transfer so far as it relates to any provisions of the regional coastal plan under section 370; and
   (ii) The territorial authority shall continue to have the power to change or revoke that transfer so far as it relates to any provisions of the district plan under section 373; and
   (iii) The combined committee shall have the power to relinquish the transfer at any time:
(d) In the case of a transfer made under subsection (7)—
   (i) The regional council shall continue to have the power to change or revoke that transfer; and
   (ii) The territorial authority shall have the power to relinquish the transfer at any time—
as if the transfer was made under section 33.

(9) This section does not limit the powers of the regional council or territorial authority under section 33.

(10) In this section, “public body” and “public bodies acting jointly”, and “Harbour Board” have the same meanings as in sections 2 (1), 8A (12) (a), and 165 (10) of the Harbours Act 1950 before the repeal of those sections by this Act.

428. Planning Tribunal—(1) The person who, immediately before the commencement of this Act, held office as the Principal Planning Judge of the Planning Tribunal shall, as from the commencement of this Act, continue to hold office as such as if his or her appointment was made under section 251.

(2) Each person who, immediately before the commencement of this Act, held office as a Planning Judge or an alternate Planning Judge of the Planning Tribunal shall, as
from the commencement of this Act, continue to hold office as such as if his or her appointment was made under section 250.

(3) Each person who, immediately before the commencement of this Act, held office as a member (other than a Planning Judge) or a deputy member of the Planning Tribunal shall, as from the commencement of this Act, be deemed to hold office as a Planning Commissioner or, as the case may be, a Deputy Planning Commissioner of the Planning Tribunal, for the remainder of the term of his or her appointment as if his or her appointment was made under section 254.

429. Savings as to compensation claims—Where, immediately before the date of commencement of this Act, any claim for compensation under any enactment repealed by this Act has been or could be made, that claim may be made or continued and enforced in all respects as if this Act had not been enacted.

430. Savings as to Court proceedings—Except as expressly provided in this Act, nothing in this Act shall affect the rights of any party to any proceedings commenced in any Court on or before the commencement of this Act.

431. Obligation to prepare draft New Zealand coastal policy statement within one year—(1) The Minister of Conservation shall, in accordance with this Act and within one year after the date of commencement of this Act, publicly notify a draft New Zealand coastal policy statement.

(2) The Minister of Conservation shall not, if he or she complies with subsection (1), be in breach of section 57 during the period from the date of commencement of this Act until the New Zealand coastal policy statement becomes operative.

432. Obligation to prepare regional policy statements and coastal plans within 2 years—(1) Every regional council shall, in accordance with this Act and within 2 years after the date of commencement of this Act, publicly notify a proposed regional policy statement and a proposed regional coastal plan for its region.

(2) A regional council that complies with subsection (1) shall not be in breach of section 60 or section 64, as the case may be, during the period from the date of commencement of this Act until the policy statement or plan becomes operative.
433. Collection of water management charges—All charges fixed by special order made under section 24k of the Water and Soil Conservation Act 1967 in respect of the financial year ending with the 30th day of June 1992 may be collected as if that Act had not been repealed by this Act.
SCHEDULES

FIRST SCHEDULE
PREPARATION, CHANGE, AND REVIEW OF POLICY STATEMENTS AND PLANS

Analysis

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PREPARATION, CHANGE, AND REVIEW OF POLICY STATEMENTS AND PLANS—continued

PART I

Preparation and Change of Policy Statements and Plans by Local Authorities

1. Interpretation and time limits—(1) In this Schedule, a reference to a policy statement or plan includes a reference to a change to a policy statement or plan.

(2) Where any time limit is set in this Schedule, a local authority may extend it under section 37.

(3) Where no time limit is set, section 21 (obligation to avoid unreasonable delay) applies.

2. Preparation of proposed policy statement or plan—(1) The preparation of a policy statement or plan shall be commenced by the preparation by the local authority concerned, of a proposed policy statement or plan.

(2) A proposed regional coastal plan shall be prepared by the regional council concerned in consultation with the Minister of Conservation and iwi authorities of the region.

3. Consultation—(1) During the preparation of a proposed policy statement or plan, the local authority concerned shall consult—

(a) The Minister for the Environment; and

(b) Those other Ministers of the Crown who may be affected by the policy statement or plan; and

(c) Local authorities who may be so affected; and

(d) The tangata whenua of the area who may be so affected, through iwi authorities and tribal runanga.

(2) A local authority may consult anyone else during the preparation of a proposed policy statement or plan.

(3) Without limiting subclauses (1) and (2), a regional council which is preparing a regional coastal plan shall consult—

(a) The Minister of Conservation generally as to the content of the plan, and with particular respect to those activities to be described as restricted coastal activities in the proposed plan; and

(b) The Minister of Transport in relation to matters to do with navigation and the Minister’s functions under the Marine Pollution Act 1974; and

(c) The Minister of Fisheries in relation to fisheries management, and the management of aquaculture activities.

4. Requirements to be inserted prior to notification of proposed district plans—(1) Before a territorial authority publicly notifies a district plan under clause 5, it shall give public notice—

(a) Inviting requiring authorities to give notice to the territorial authority of their requirements for purposes described in section 168, and notifying requiring authorities of their obligation under section 183 in respect of designations in the existing district plan; and

(b) Inviting heritage protection authorities to give notice to the territorial authority of their requirements for purposes described in section 189.
FIRST SCHEDULE—continued

PREPARATION, CHANGE, AND REVIEW OF POLICY STATEMENTS AND PLANS—continued

PART I—continued

Preparation and Change of Policy Statements and Plans by Local Authorities—continued

(2) Every notice of a requirement shall—
(a) Contain the information required by such of sections 168, 183, and 189 as apply; and
(b) Be given to the territorial authority within 20 working days of the date of public notification under subclause (1).

(3) A territorial authority shall include in its proposed district plan, provision for any requirement it receives notice of under this clause.

(4) Nothing in this section applies where a territorial authority publicly notifies a change to a district plan under clause 5.

5. Public notice and provision of document to public bodies—

(1) A local authority that has prepared a proposed policy statement or plan—
(a) Shall publicly notify it; and
(b) Shall send a copy of the public notice to every person who is known by the local authority to be an owner or occupier of land which is, in its opinion, likely to be directly affected by the proposed policy statement or plan, with a letter drawing the person's attention to the proposed policy statement or plan.

(2) Public notice under subclause (1) shall state—
(a) Where the proposed policy statement or plan may be inspected; and
(b) That any person may make a submission on the proposed policy statement or plan; and
(c) The process for public participation in the consideration of the proposed policy statement or plan; and
(d) The closing date for submissions; and
(e) The address for service of the local authority.

(3) The closing date for submissions—
(a) Shall, in the case of a proposed policy statement or plan, be at least 40 working days after public notification; and
(b) Shall, in the case of a proposed change to a policy statement or plan, be at least 20 working days after public notification.

(4) A local authority shall provide one copy of its proposed policy statement or plan without charge to—
(a) The Minister for the Environment; and
(b) The appropriate regional manager for the Ministry for the Environment; and
(c) In the case of a regional coastal plan, the Minister of Conservation and the appropriate regional conservator for the Department of Conservation; and
(d) In the case of a district plan, the regional council and adjacent local authorities; and
(e) In the case of a policy statement or regional plan, constituent territorial authorities, and adjacent regional councils; and
(f) The tangata whenua of the area, through iwi authorities and tribal runanga.
(5) A local authority shall make any proposed policy statement or plan prepared by it available in every public library in its area and in every other place in its area that it considers appropriate.

(6) The obligation imposed by subclause (5) is in addition to the local authority's obligations under section 35 (records).

6. Making submissions—(1) Any person may make a submission to the relevant local authority on a proposed policy statement or plan that is publicly notified under clause 5.

(2) Every submission shall be in writing, be served on the local authority, and shall state—

(a) Whether or not the person making the submission wishes to be heard in respect of the submission; and

(b) The decision that the person wishes the local authority to make; and

(c) Any other matter prescribed in regulations.

7. Summary of submissions and notification—A local authority shall publicly notify—

(a) A summary of all submissions received by it on a proposed policy statement or plan; and

(b) Where those submissions can be inspected; and

(c) In the case of a plan, the period within which further submissions in support of or opposition to those submissions can be made, which period shall not exceed 20 working days from the date of notification; and

(d) The address for service of the local authority.

8. Hearing by local authority—A local authority shall—

(a) Hold a hearing into submissions on its proposed policy statement or plan and any requirement notified under clause 4; and

(b) Publicly notify the dates, times, and places where it will hold the hearings; and

(c) Notify every person who made a submission and who requested to be heard, of the dates, times, and places of the hearings; and

(d) In the case of a district plan, notify every authority which made a requirement under clause 4 of the dates, times, and places of the hearings into that requirement; and

(e) Give at least 10 working days' notice of every hearing to every person who made a submission and who requested to be heard.

9. Recommendations on requirements inserted in proposed district plans—Where a requirement has been inserted in a proposed district plan under clause 4, the territorial authority shall make and notify its recommendation to the appropriate authority in accordance with section 171 or section 191.
10. Decision on submissions on provisions other than requirements—After hearing submissions on the provisions of a proposed policy statement or plan, other than requirements, the local authority concerned shall give its decision regarding the submissions and state its reasons for accepting or rejecting them.

11. Notification of decisions and recommendations—(1) A local authority shall serve a copy of its decision on submissions on any provision, other than a requirement, on every person who made a submission on that provision.

(2) A local authority shall serve notice of its decision on submissions on provisions, other than requirements, on—

(a) Adjacent territorial authorities and the regional council for the region; and

(b) Any person consulted under clause 3; and

(c) Any other person it considers may be interested in the decision.

(3) A notice of decision on submissions shall state—

(a) A summary of the decision; and

(b) Where the full text of the decision is available for public inspection.

12. Record of effect of decisions on provisions other than requirements—From the date of public notification of a decision, a local authority shall show the effect of any decision on submissions on provisions, other than requirements, on any copy of the proposed policy statement or plan available for public inspection.

13. Decision of requiring authority or heritage protection authority—(1) A requiring authority or heritage protection authority shall notify the territorial authority whether it accepts or rejects its recommendation in whole or in part within 20 working days after the day on which the territorial authority notifies its recommendation under clause 9.

(2) A requiring authority and a heritage protection authority may modify a requirement if, and only if, that modification is recommended by the territorial authority, or it is not inconsistent with the requirement as notified.

(3) The territorial authority shall alter the proposed district plan to show the modification or delete the requirement in accordance with the requiring authority’s or heritage protection authority’s notice.

(4) The requiring authority or heritage protection authority shall serve a copy of its response to the territorial authority’s recommendation on its requirement on every person who made a submission to the territorial authority.

(5) The requiring authority or heritage protection authority shall give public notice of its response to the territorial authority’s recommendation stating—
FIRST SCHEDULE—continued

PREPARATION, CHANGE, AND REVIEW OF POLICY STATEMENTS AND PLANS—continued

PART I—continued

Preparation and Change of Policy Statements and Plans by Local Authorities—continued

(a) A summary of the response; and
(b) Where the full text of the response is available for public inspection.

14. Reference of decision on submissions and requirements to the Planning Tribunal—(1) Any person who made a submission on a proposed policy statement or plan may refer to the Planning Tribunal—

(a) Any provision included in the proposed policy statement or plan, or a provision which the decision on submissions proposes to include in the policy statement or plan; or

(b) Any matter excluded from the proposed policy statement or plan, or a provision which the decision on submissions proposes to exclude from the policy statement or plan,—

if that person referred to that provision or matter in that person’s submission on the proposed policy statement or plan.

(2) Subclause (1) does not apply to any provision that is a requirement under clause 4.

(3) The following persons may refer any aspect of a requiring authority’s or heritage protection authority’s decision to the Planning Tribunal:

(a) Any person who made a submission on the requirement which referred to that matter; or

(b) The territorial authority.

(4) Any reference to the Planning Tribunal under this clause shall be lodged with the Planning Tribunal within 15 working days of the date of public notification of the decision of the local authority, requiring authority or heritage protection authority concerned or receipt of a copy of the decision, whichever is the later, and shall state—

(a) The reasons for the reference and relief sought; and

(b) The applicant’s address for service; and

(c) Any other matters required by regulations.

(5) A person who makes a reference to the Planning Tribunal under this clause shall serve a copy of the notice—

(a) Within the time specified in subclause (4), on—

(i) The local authority; and

(ii) The requiring authority or heritage protection authority, as the case may be, in the case of a requirement; and

(b) Where the reference is made in respect of a submission on a provision, other than a requirement, within 5 working days of making the reference, on—

(i) Every person who made a submission on that provision; and

(ii) The Minister of Conservation, in the case of a regional coastal plan; and

(c) Where the reference is made in respect of a requirement in a district plan, on every person who made a submission on that requirement within 5 working days of making the reference.
**FIRST SCHEDULE—continued**

**PREPARATION, CHANGE, AND REVIEW OF POLICY STATEMENTS AND PLANS—continued**

**PART I—continued**

Preparation and Change of Policy Statements and Plans by Local Authorities—continued

15. **Hearing by the Planning Tribunal**—(1) The Planning Tribunal shall hold a public hearing into any provision or matter referred to it.

(2) Where the Tribunal holds a hearing into any provision of a proposed policy statement or plan (other than a regional coastal plan) that reference is an appeal, and the Tribunal may confirm, or direct the local authority to modify, delete, or insert, any provision which is referred to it.

(3) Where the Tribunal hears a reference into a regional coastal plan, that reference is an inquiry and the Tribunal—

(a) Shall report its findings to the applicant, the local authority concerned, and the Minister of Conservation; and

(b) May include a direction to the regional council to make modifications to, deletions from, or additions to, the regional coastal plan.

16. **Amendment and variation of proposed policy statement or plan**—(1) A local authority shall amend its proposed policy statement or plan to give effect to any directions of the Planning Tribunal.

(2) A local authority may make other amendments to the proposed policy statement or plan to update any information or correct any minor errors.

(3) Where a local authority decides to make amendments at any time prior to approval of the policy statement or plan (other than under subclause (2)), the provisions of this Schedule relating to consultation and public participation apply to any such variation as far as they are applicable and with necessary modifications.

17. **Final consideration of policy statements and plans other than regional coastal plans**—(1) A local authority shall approve a proposed policy statement or plan (other than a regional coastal plan) once it has made amendments under clause 16 (if any).

(2) A local authority may, with the consent of the Planning Tribunal, approve part of a policy statement or plan, if all submissions or appeals relating to that part have been disposed of.

(3) Every approval under this clause shall require a special resolution of the local authority, and shall be effected by affixing the seal of the local authority to the proposed policy statement or plan.

18. **Consideration of a regional coastal plan by regional council**—(1) A regional council shall adopt a proposed regional coastal plan for reference to the Minister of Conservation once it has made amendments under clause 16 (if any).

(2) The adoption of a proposed regional coastal plan under this clause shall require a special resolution of the regional council, and shall be effected by affixing the seal of the regional council to the proposed regional coastal plan.
PART I—continued

Preparation and Change of Policy Statements and Plans by Local Authorities—continued

(3) As soon as practicable after a regional council adopts a regional coastal plan it shall send the plan to the Minister of Conservation for his or her approval.

19. Ministerial approval of regional coastal plan—(1) Prior to his or her approval of a regional coastal plan, the Minister of Conservation may require the regional council to make any amendments to the plan specified by that Minister.

(2) The Minister of Conservation may not require a regional council to make an amendment to a regional coastal plan that is in conflict or inconsistent with any direction of the Planning Tribunal, unless the Minister made a submission on the provision concerned when the provision was referred to the Tribunal.

(3) When the Minister of Conservation requires a regional council to make changes under subclause (1), the Minister shall give reasons.

(4) Every approval of a regional coastal plan under this clause shall be effected by the Minister of Conservation signing the regional coastal plan.

20. Operative date—(1) A proposed policy statement or plan (other than a regional coastal plan) becomes an operative policy statement or plan—

(a) On the day on which it is approved; or

(b) On a later date or dates specified in the policy statement or plan.

(2) A proposed regional coastal plan becomes an operative regional coastal plan—

(a) On the day on which it is approved by the Minister of Conservation; or

(b) On a later date or dates specified in the plan.

(3) The local authority shall publicly notify the date on which the policy statement or plan becomes operative at least 5 working days before that event.

(4) The local authority shall provide one copy of its operative policy statement or plan without charge to—

(a) The Minister for the Environment; and

(b) The appropriate regional manager for the Ministry for the Environment; and

(c) In the case of a regional coastal plan, the Minister of Conservation and the appropriate regional conservator for the Department of Conservation; and

(d) In the case of a district plan, the regional council and adjacent territorial authorities; and

(e) In the case of a policy statement or regional plan, constituent territorial authorities and adjacent regional councils; and

(f) The tangata whenua of the area, through iwi authorities and tribal runanga.
FIRST SCHEDULE—continued

PREPARATION, CHANGE, AND REVIEW OF POLICY STATEMENTS AND PLANS—continued

PART I—continued

Preparation and Change of Policy Statements and Plans by Local Authorities—continued

(5) The local authority shall provide one copy of its operative policy statement or plan to every public library in its area.

(6) The obligation imposed by subclause (5) is in addition to the local authority's obligations under section 35 (records).

PART II

Requests for Changes to Policy Statements and Plans of Local Authorities and Requests to Prepare a Regional Plan other than a Regional Coastal Plan

21. Application—In this Part, "applicant" means a person who proposes—

(a) A change to a policy statement or plan; or

(b) The preparation of a regional plan other than a regional coastal plan.

22. Persons who may propose preparation or changes to policy statements and plans—(1) Any person may propose a change to a regional plan (including a regional coastal plan) or district plan.

(2) Any person may request the preparation of a regional plan other than a regional coastal plan.

(3) Any Minister of the Crown or the regional council or any territorial authority of the region may propose a change to a policy statement.

(4) Where a territorial authority proposes to change its policy statement or plan, or a regional council proposes to prepare a proposed regional plan, the provisions of this Part shall not apply and the procedure set out in Part I applies.

23. Request for changes or plan preparation—(1) An applicant may make a written request to the appropriate local authority to—

(a) Change a policy statement or plan; or

(b) Prepare a regional plan other than a regional coastal plan.

(2) A request under subclause (1) shall—

(a) Define the proposed change or plan with sufficient clarity for it to be readily understood; and

(b) Describe the environmental results anticipated from the implementation of the change or plan.

24. Local authority shall consider the request—A local authority shall, within 20 working days of receiving a request under clause 23,—

(a) Agree to the request; or

(b) Refuse to consider the change or plan, but only on the grounds that—

(i) The request is frivolous or vexatious; or

(ii) The substance of the proposal has been considered and given effect to or rejected by the local authority within the last 2 years; or

(iii) The proposal has little or no planning merit; or
Requests for Changes to Policy Statements and Plans of Local Authorities and Requests to Prepare a Regional Plan other than a Regional Coastal Plan—continued

(iv) The proposal and its environmental impact has not been described with sufficient clarity for it to be readily understood; or
(v) The proposal would make the policy statement or plan inconsistent with any other policy statement (either national or regional) or plan in contravention of Part V; or
(vi) In the case of a proposed change to a policy statement or plan, the policy statement or plan has been operative for less than 2 years.

25. Deferral of preparation or notification—A local authority may agree to a request for a change to a policy statement or plan, or the preparation of a regional plan, but defer its preparation or notification where—

(a) In the case of a change, a review of the policy statement or plan is due within 3 months of the decision on the request; or
(b) The local authority proposes to notify a policy statement or plan which would cover the subject-matter of the requested change or regional plan within 3 months of the decision on the request.

26. Appeal of refusal or deferral—(1) An applicant whose request is refused or deferred may appeal the refusal or deferral to the Planning Tribunal.

(2) Written notice of appeal shall be lodged with the Tribunal within 15 working days of receipt of advice of the decision from the local authority by the applicant.

(3) The applicant shall serve a copy of the notice of appeal on the local authority within the time limit specified in subclause (2).

27. Planning Tribunal's decision—The Planning Tribunal may—

(a) Direct the local authority to prepare and notify a change or regional plan in accordance with this Schedule within any time period that the Tribunal thinks appropriate; or
(b) Direct that no further action be taken on the proposed change or regional plan.

28. Preparation process—(1) The provisions of Part I of this Schedule apply to any preparation or change requested under this Part, except as provided in subclauses (2) to (7).

(2) Where a local authority is preparing a change to a policy statement or plan, the local authority shall—

(a) Prepare the change in consultation with the applicant; and
(b) Notify the change—

(i) Within 3 months of agreeing to prepare the change; or
(ii) Within the period that the Planning Tribunal directs under clause 27 (a).
FIRST SCHEDULE—continued

PREPARATION, CHANGE, AND REVIEW OF POLICY STATEMENTS AND PLANS—continued

PART II—continued

Requests for Changes to Policy Statements and Plans of Local Authorities and Requests to Prepare a Regional Plan other than a Regional Coastal Plan—continued

(3) The local authority shall send to the applicant copies of all submissions on the proposed plan that relate to the applicant's proposal.

(4) The applicant has the right to appear before the local authority under clause 8 as if the applicant had made a submission and requested to be heard.

(5) Where a request has been made for a change to a plan, the local authority may, on application by the applicant made at any time prior to its decision on submissions under clause 10, give its decision as if—

(a) The decision were a decision on an application for a resource consent:

(b) Where the request has not been notified under this Schedule, the provisions of sections 90 and 92 to 101 (notification, further information, submissions, and hearings) applied:

(c) Where submissions on the request have not been heard, the provisions of sections 92 and 99 to 101 (further information, submissions, and hearings) applied:

(d) In all cases the provisions of sections 104 to 121 (decisions, conditions, notification, and appeals) applied with all necessary modifications as if—

(i) Every reference to an application for a resource consent were to a request under clause 23; and

(ii) Every reference to the receipt of an application were to a receipt of an application under this subclause; and

(iii) Every reference to a consent authority were to the local authority which will make the decision.

(6) Where a local authority is notifying its decision on submissions under clause 11 on any change or request for a regional plan, it shall serve notice of that decision on the applicant.

(7) Where a change or request for a regional plan has been referred to the Planning Tribunal under clause 14, the applicant has the right to appear before the Tribunal.
SECOND SCHEDULE

MATTERS THAT MAY BE PROVIDED FOR IN POLICY STATEMENTS AND PLANS

PART I

MATTERS RELATED TO REGIONS

1. Any matter relating to the use, development, or protection of any natural and physical resources for which the regional council has responsibility under this Act, including the control of—
   (a) Taking, using, damming, or diverting of any water in the region;
   (b) The quantity, level, and flow of water in any water body, including—
      (i) The setting of any maximum or minimum levels or flows of water:
      (ii) The control of the range, or rate of change, of levels or flows of water:
   (c) Discharges of contaminants into or onto land, air, or water, and discharges of water into water:
   (d) Setting objectives and policies for any actual or potential adverse effects of any use, development, or protection of land described in section 9 which are of regional significance:
   (e) Use of land for the purpose of—
      (i) Soil conservation:
      (ii) The maintenance and enhancement of the quality of water in water bodies and coastal water:
      (iii) The maintenance of the quantity of water in water bodies and coastal water:
      (iv) The avoidance or mitigation of natural hazards:
      (v) The prevention or mitigation of any adverse effects of the storage, use, disposal, and transportation of hazardous substances:
   (f) The introduction or planting of any plant in, on, or under any bed of a river or lake for any purpose described in paragraph (e):
   (g) Any emission of noise arising from any activity referred to in paragraphs (a) to (f), and the mitigation of the effects of noise.

2. In the case of a regional coastal plan, any matter relating to the use, development, or protection of a coastal marine area or water covering the area which a regional council has responsibility for under this Act, in conjunction with the Minister of Conservation, including the control of—
   (a) Use of the coastal marine area described in section 12 including, where appropriate, the protection of conservation values, the recognition of opportunities for recreation, aquaculture, and other forms of development:
   (b) Actual or potential effects of the use, development, or protection of the land, including the avoidance or mitigation of natural hazards and the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:
   (c) Occupation of space on lands of the Crown or lands vested in the regional council and the extraction of sand, shingle, and other natural material from those lands:
   (d) Activities in relation to the surface of water covering the area in conjunction with adjacent territorial authorities:
   (e) Discharges of contaminants into or onto land, air, or water, and discharges of water into water:
   (f) Taking, using, damming, or diverting of any water covering the area:
SECOND SCHEDULE—continued

MATTERS THAT MAY BE PROVIDED FOR IN POLICY STATEMENTS AND PLANS—continued

PART I—continued

MATTERS RELATED TO REGIONS—continued

(g) Any emission of noise arising from any activity referred to in paragraphs (a) to (f), and the mitigation of the effects of noise.

3. In the case of a regional coastal plan, any matters necessary for the implementation of any policy stated in a New Zealand coastal policy statement in respect of the Crown’s interests in land of the Crown in the coastal marine area.

4. Any matter relating to the management of any actual or potential effects of any use, development, or protection described in clauses 1 or 2 on—

(a) The community or any group within the community (including minorities, children, and disabled people);

(b) Other natural and physical resources:

(c) Natural, physical, or cultural heritage sites and values, including landscape, land forms, historic places, and waahi tapu:

(d) The creation, minimisation, recycling, treatment, disposal, and containment of all forms of contaminants.

5. The circumstances when a financial contribution (within the meaning of section 108 (9)), whether in cash, land, works, or services, may be imposed, the maximum amount of the levy that may be imposed or the formula by which such amount may be calculated, and the general purposes for which the levy may be used.

6. The scale, sequence, timing, and relative priority of regional public works, goods, and services, including public utility networks which cross district boundaries.

PART II

MATTERS RELATED TO DISTRICTS

1. Any matter relating to the management of the use, development, or protection of land and any associated natural and physical resources for which the territorial authority has responsibility under this Act, including the control of—

(a) Any actual or potential effects of any use of land described in section 9 (4) (a) to (e), including—

(i) The implementation of rules for the avoidance or mitigation of natural hazards; and

(ii) The implementation of rules for the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances:

(b) Any subdivision of land described in section 11 and Part X of this Act:

(c) Any emission of noise from land and structures in the district, and the mitigation of the effects of noise:

(d) Any actual or potential effects of activities in relation to the surface of water in rivers and lakes.
SECOND SCHEDULE—continued

MATTERS THAT MAY BE PROVIDED FOR IN POLICY STATEMENTS AND PLANS—continued

PART II—continued

MATTERS RELATED TO DISTRICTS—continued

2. Any matter relating to the management of any actual or potential effects of any use, development, or protection described in clause 1 of this Part, including on—
   (a) The community or any group within the community (including minorities, children, and disabled people):
   (b) Other natural and physical resources:
   (c) Natural, physical, or cultural heritage sites and values, including landscape, land forms, historic places, and waahi tapu.

3. The circumstances when a financial contribution (within the meaning of section 108 (9)), whether in cash, land, works, or services, may be imposed, the maximum amount of the levy that may be imposed or the formula by which such amount may be calculated, and the general purposes for which the levy may be used.

4. The circumstances when a reserve contribution (whether in the form of land or another form of financial contribution) described in section 220 (1) may be imposed and the maximum amount of any contribution which may be imposed and the general purposes for which the levy may be used.

5. Those locations or circumstances where—
   (a) Any esplanade reserve is to be—
      (i) Of a width greater than 20 metres by virtue of a rule made under section 77 (1) (a); or
      (ii) Of a width not less than 3 metres by virtue of a rule made under section 77 (1) (a);
   (b) No esplanade reserve is required by virtue of a rule made under section 77 (1) (b),—
      having regard to the obligations set out in section 77 (2).

6. The scale, sequence, timing, and relative priority of public works, goods, and services, including public utility networks and any provision for land used or to be used for a public work for which the territorial authority has financial responsibility.
THIRD SCHEDULE
WATER QUALITY CLASSES

Note: The standards listed for each class apply after reasonable mixing of any contaminant or water with the receiving water and disregard the effect of any natural perturbations that may affect the water body.

1. **Class AE Water (being water managed for aquatic ecosystem purposes)**
   (1) The natural temperature of the water shall not be changed by more than 3°C Celsius.
   (2) The following shall not be allowed if they have an adverse effect on aquatic life:
      (a) Any pH change:
      (b) Any increase in the deposition of matter on the bed of the water body or coastal water:
      (c) Any discharge of a contaminant into the water.
   (3) The concentration of dissolved oxygen shall exceed 80% of saturation concentration.
   (4) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

2. **Class F Water (being water managed for fishery purposes)**
   (1) The natural temperature of the water—
      (a) Shall not be changed by more than 3°C Celsius; and
      (b) Shall not exceed 25°C Celsius.
   (2) The concentration of dissolved oxygen shall exceed 80% of saturation concentration.
   (3) Fish shall not be rendered unsuitable for human consumption by the presence of contaminants.

3. **Class FS Water (being water managed for fish spawning purposes)**
   (1) The natural temperature of the water shall not be changed by more than 3°C Celsius. The temperature of the water shall not adversely affect the spawning of the specified fish species during the spawning season.
   (2) The concentration of dissolved oxygen shall exceed 80% of saturation concentration.
   (3) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

4. **Class SG Water (being water managed for the gathering or cultivating of shellfish for human consumption)**
   (1) The natural temperature of the water shall not be changed by more than 3°C Celsius.
   (2) The concentration of dissolved oxygen shall exceed 80% of saturation concentration.
   (3) Aquatic organisms shall not be rendered unsuitable for human consumption by the presence of contaminants.
5. **Class CR Water** (being water managed for contact recreation purposes)

   (1) The visual clarity of the water shall not be so low as to be unsuitable for bathing.
   (2) The water shall not be rendered unsuitable for bathing by the presence of contaminants.
   (3) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

6. **Class WS Water** (being water managed for water supply purposes)

   (1) The pH of surface waters shall be within the range 6.0–9.0 units.
   (2) The concentration of dissolved oxygen in surface waters shall exceed 5 grams per cubic metre.
   (3) The water shall not be rendered unsuitable for treatment (equivalent to coagulation, filtration, and disinfection) for human consumption by the presence of contaminants.
   (4) The water shall not be tainted or contaminated so as to make it unpalatable or unsuitable for consumption by humans after treatment (equivalent to coagulation, filtration, and disinfection), or unsuitable for irrigation.
   (5) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

7. **Class I Water** (being water managed for irrigation purposes)

   (1) The water shall not be tainted or contaminated so as to make it unsuitable for the irrigation of crops growing or likely to be grown in the area to be irrigated.
   (2) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

8. **Class IA Water** (being water managed for industrial abstraction)

   (1) The quality of the water shall not be altered in those characteristics which have a direct bearing upon its suitability for the specified industrial abstraction.
   (2) There shall be no undesirable biological growths as a result of any discharge of a contaminant into the water.

9. **Class NS Water** (being water managed in its natural state)

    The natural quality of the water shall not be altered.

10. **Class A Water** (being water managed for aesthetic purposes)

    The quality of the water shall not be altered in those characteristics which have a direct bearing upon the specified aesthetic values.

11. **Class C Water** (being water managed for cultural purposes)

    The quality of the water shall not be altered in those characteristics which have a direct bearing upon the specified cultural or spiritual values.
FOURTH SCHEDULE

ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

1. Matters that should be included in an assessment of effects on the environment—Subject to the provisions of any policy statement or plan, an assessment of effects on the environment for the purposes of section 88 (6) (b) should include—

(a) A description of the proposal:

(b) Where it is likely that an activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity:

(c) Where an application is made for a discharge permit, a demonstration of how the proposed option is the best practicable option:

(d) An assessment of the actual or potential effect on the environment of the proposed activity:

(e) Where the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment which are likely to arise from such use:

(f) Where the activity includes the discharge of any contaminant, a description of—

(i) The nature of the discharge and the sensitivity of the proposed receiving environment to adverse effects; and

(ii) Any possible alternative methods of discharge, including discharge into any other receiving environment:

(g) A description of the mitigation measures (safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect:

(h) An identification of those persons interested in or affected by the proposal, the consultation undertaken, and any response to the views of those consulted:

(i) Where the scale or significance of the activity’s effect are such that monitoring is required, a description of how, once the proposal is approved, effects will be monitored and by whom.

2. Matters that should be considered when preparing an assessment of effects on the environment—Subject to the provisions of any policy statement or plan, any person preparing an assessment of the effects on the environment should consider the following matters:

(a) Any effect on those in the neighbourhood and, where relevant, the wider community including any socio-economic and cultural effects:

(b) Any physical effect on the locality, including any landscape and visual effects:

(c) Any effect on ecosystems, including effects on plants or animals and any physical disturbance of habitats in the vicinity:

(d) Any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural, or other special value for present or future generations:

(e) Any discharge of contaminants into the environment, including any unreasonable emission of noise and options for the treatment and disposal of contaminants:
FOURTH SCHEDULE—continued

ASSESSMENT OF EFFECTS ON THE ENVIRONMENT—continued

(f) Any risk to the neighbourhood, the wider community, or the environment through natural hazards or the use of hazardous substances or hazardous installations.
FIFTH SCHEDULE  Section 350

Provisions Applying in Respect of the Hazards Control Commission

Membership

1. The Minister shall appoint one of the members as the Chairperson and another member as the Deputy Chairperson, and every such appointee shall hold office until he or she resigns, or is removed by the Minister.

2. Every member shall hold office for a term of 3 years, or such shorter term as is specified in his or her appointment, and may only be reappointed once.

3. Every member, unless removed from office under clause 5, shall continue in office until his or her successor comes into office, notwithstanding that the term of his or her office may have expired.

4. Any member may at any time resign from office by written notice to the Minister.

5. Any member may at any time be removed from office by the Governor-General on the recommendation of the Minister for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.

6. The powers of the Commission shall not be affected by any vacancy in its membership.

Members Not Personally Liable

7. No member shall be personally liable for any act or default done or made by the Commission or by any member in good faith in the course of the operations of the Commission.

Remuneration and Expenses of Commission Members

8. The Commission shall be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951 and there may, if the Minister so directs, be paid to any member out of money appropriated by Parliament for the purpose—

(a) Remuneration by way of fees, salary, or allowances in accordance with that Act; and

(b) Travelling allowances and travelling expenses in accordance with that Act in respect of time spent travelling in the service of the Commission—

and the provisions of that Act apply accordingly.

Meetings

9. Meetings of the Commission shall be held at such times and places as the Commission or the Chairperson or the Deputy Chairperson from time to time appoints.

10. The Chairperson shall preside at each meeting of the Commission. In the event of the absence of the Chairperson from any meeting of the Commission, the Deputy Chairperson shall preside at that meeting and, if he or she is also absent, the meeting shall be presided over by a member appointed by the members present.
FIFTH SCHEDULE—continued

PROVISIONS APPLYING IN RESPECT OF THE HAZARDS CONTROL COMMISSION—continued

11. At all meetings of the Commission, the quorum necessary for the transaction of business shall be 3 members.

12. At any meeting of the Commission, the person presiding at the meeting shall have a deliberative vote and, if the voting is equal, shall also have a casting vote.

13. A resolution in writing signed or assented to by letter, telegram, facsimile transmission, or telex, by all members of the Commission shall be as valid and effectual as if it had been passed at a meeting of the Commission duly called and constituted.

14. Subject to this Act, the Commission may regulate its procedure in such manner as it thinks fit.

Execution of Documents

15. The Commission may from time to time, in writing under its common seal, authorise any one or more members or employees of the Commission to execute any deeds, instruments, contracts, or other documents on behalf of the Commission, and may at any time in the same manner revoke any such authority.

16. Any authority given under clause 15 to any employee of the Commission may be given to—
   (a) Any specified employee; or
   (b) Any employee of a specified class; or
   (c) The holder for the time being of any specified office or of any office of a specified class.

17. Every person purporting to execute any document on behalf of the Commission pursuant to any such authority, shall, in the absence of proof to the contrary, be presumed to be acting in accordance with such an authority.

Employees

18. The Commission shall from time to time appoint—
   (a) A chief executive officer, who shall have such designation as the Commission may from time to time determine; and
   (b) Such other officers and employees of the Commission as may be necessary for the administration of its affairs.

19. The chief executive officer shall be the chief administrative officer of the Commission and, subject to the other provisions of this Schedule, shall be responsible to the Commission for the efficient and economical administration of the affairs of the Commission.

20. Any person appointed under clause 18 (a) shall be employed on such terms and conditions of employment as the Commission from time to time determines in agreement with the State Services Commission.
FIFTH SCHEDULE—continued

PROVISIONS APPLYING IN RESPECT OF THE HAZARDS CONTROL COMMISSION—continued

21. The persons appointed under clause 18 (b) shall be employed on such terms and conditions of employment as the Commission from time to time determines after consultation with the State Services Commission.


23. The Commission shall operate a personnel policy that complies with the principle of being a good employer.

24. For the purposes of clause 23, a "good employer" is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—
   (a) Good and safe working conditions; and
   (b) An equal employment opportunities programme; and
   (c) The impartial selection of suitably qualified persons for appointment; and
   (d) Recognition of—
       (i) The aims and aspirations of Maori people; and
       (ii) The employment requirements of Maori people; and
       (iii) The need for greater involvement of Maori people as employees of the employer operating the personnel policy; and
   (e) Opportunities for the enhancement of the abilities of individual employees; and
   (f) Recognition of the aims and aspirations, and the cultural differences, of ethnic and minority groups; and
   (g) Recognition of the employment requirements of women; and
   (h) Recognition of the employment requirements of persons with disabilities.

25. The Commission—
   (a) Shall develop and publish in each year an equal employment opportunities programme; and
   (b) Shall ensure in each year that the equal employment opportunities programme for that year is complied with.

26. For the purposes of clauses 24 and 25, an equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

27. For the purposes of the Government Superannuation Fund Act 1956, service as an officer or employee of the Commission shall be deemed to be Government service.

28. Where any person who is appointed under this Schedule as an officer or employee of the Commission is, at the date of that person's appointment, an officer or employee of the State services, the period of
FIFTH SCHEDULE—continued

PROVISIONS APPLYING IN RESPECT OF THE HAZARDS CONTROL COMMISSION—continued

that person's service as an officer or employee of the Commission appointed under this Schedule shall be deemed to be continuous service in that branch of the State services in which that person was employed at that date for the purposes of—
(a) The Government Superannuation Fund Act 1956; and
(b) Entitlement to leave of absence.

Committees, Consultants, Agents, and Specialists

29. The Commission may from time to time appoint committees, consultants, agents, and specialists to advise it in relation to the exercise of its functions and powers, or to exercise such functions and powers as may be delegated to such committees or persons.

30. The Commission may—
(a) Pay to the members of any such committees or persons so appointed such remuneration by way of fees, salary, or allowances, and such travelling allowances and expenses, as it thinks fit; and
(b) Contribute towards the remuneration, travelling allowances, and expenses of any such members or persons, whose employers provide services for the Commission.

Delegations

31. The Commission may, in writing, delegate to any committee, or person, or officer of a specified class, or the holder or holders for the time being of a specified office or offices, any of its functions or powers (other than the power to delegate under this clause).

32. Where the delegation is to a committee or class of persons it shall, subject to any express terms of the delegation, apply to the members of the committee or the class for the time being, irrespective of any change in the membership of the committee or class.

33. Every delegation under clause 31 shall be revocable at will, and no such delegation shall prevent the exercise of the functions or powers by the Commission.

34. The fact that any person purports to exercise or to have exercised any function or power of the Commission pursuant to any delegation shall, in the absence of proof to the contrary, be sufficient evidence of the person's authority to do so.

35. Where the Commission has delegated any function or power under clause 31, the Commission is responsible for every exercise of the function or power by the delegate, as if the function or power was exercised by the Commission, unless the Commission—
(a) Believes on reasonable grounds at all times before the exercise of the function or power that the delegate will exercise the function or power in conformity with the duties imposed on the Commission by this Act; and
(b) Has monitored, by means of reasonable methods properly used, the exercise of the function or power by the delegate.
36. The Commission shall in each year supply the Minister with a report with respect to the operation of the Commission. The report shall include—

(a) The financial statements prepared by the Commission, in accordance with Part V of the Public Finance Act 1989, in respect of the financial year to which the report relates, together with the audit report and the management statement relating to those financial statements; and

(b) Such other matters as the Minister in writing may from time to time require.

A copy of every annual report of the Commission shall be tabled in the House of Representatives in accordance with section 44 of the Public Finance Act 1989.
SIXTH SCHEDULE

ENACTMENTS REPEALED

1889, No. 19 (L)—The Kumara Sludge Channel Act 1889.
1908, No. 169—The Sand Drift Act 1908. (R.S. Vol. 11, p. 315.)
1910, No. 37 (L)—The Waihou and Ohinemuri Rivers Improvement Act 1910. (Reprinted 1931, Vol. 4, p. 582.)
1915, No. 68—The Reserves and Other Lands Disposal and Public Bodies Empowering Act 1915: Section 110. (R.S. Vol. 11, p. 551.)
1917, No. 26—The Reserves and Other Lands Disposal and Public Bodies Empowering Act 1917: Section 2. (R.S. Vol. 11, p. 552.)
1919, No. 22 (L)—The Hawke's Bay Rivers Act 1919.
1920, No. 3 (L)—The Hawke's Bay Rivers Amendment Act 1920.
1930, No. 16 (L)—The Hawke's Bay Rivers Amendment Act 1930.
1932–33, No. 9 (L)—The Hawke’s Bay Rivers Amendment Act 1932–33.
1933, No. 15 (L)—The Hawke’s Bay Rivers Amendment Act 1933.
1934–35, No. 3 (L)—The Hawke’s Bay Rivers Amendment Act 1934–35.
1936, No. 9 (L)—The Hawke’s Bay Rivers Amendment Act 1936.
1945, No. 40—The Statutes Amendment Act 1945: Section 89. (R.S. Vol. 11, p. 554.)
1959, No. 100—The Iron and Steel Industry Act 1959. (R.S. Vol. 9, p. 199.)
SIXTH SCHEDULE—continued
ENACTMENTS REPEALED—continued

### SEVENTH SCHEDULE

#### REGULATIONS AND ORDERS REVOKED

<table>
<thead>
<tr>
<th>Title</th>
<th>Statutory Regulations Serial Number</th>
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<tbody>
<tr>
<td>The Soil Conservation Regulations 1945</td>
<td>1945/32</td>
</tr>
<tr>
<td>The Water and Soil Conservation Regulations 1968</td>
<td>1968/181</td>
</tr>
<tr>
<td>The Water and Soil Conservation Regulations 1968, Amendment No. 1</td>
<td>1970/56</td>
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<tr>
<td>The Clean Air (Licensing) Regulations 1973</td>
<td>1973/503</td>
</tr>
<tr>
<td>The Clean Air Act (Smoke) Regulations 1975</td>
<td>1975/52</td>
</tr>
<tr>
<td>The Clean Air Zone (Christchurch) Order 1977</td>
<td>1977/172</td>
</tr>
<tr>
<td>The Water and Soil Conservation Regulations 1968, Amendment No. 2</td>
<td>1978/36</td>
</tr>
<tr>
<td>The Town and Country Planning Regulations 1978</td>
<td>1978/130</td>
</tr>
<tr>
<td>The Clean Air Zone (Christchurch) Order 1977, Amendment No. 1</td>
<td>1979/258</td>
</tr>
<tr>
<td>The Clean Air Zone (Christchurch) Order 1977, Amendment No. 2</td>
<td>1981/70</td>
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<tr>
<td>The Town and Country Planning Regulations 1978, Amendment No. 1</td>
<td>1981/104</td>
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<tr>
<td>The Clean Air Zone (Christchurch) Order 1977, Amendment No. 3</td>
<td>1982/247</td>
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<tr>
<td>The Clean Air Act Schedules Order 1982</td>
<td>1982/278</td>
</tr>
<tr>
<td>The Clean Air (Licensing) Regulations 1973, Amendment No. 1</td>
<td>1983/45</td>
</tr>
<tr>
<td>The Clean Air Zones (Canterbury Region) Order 1984</td>
<td>1984/81</td>
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<tr>
<td>The Clean Air (Licensing) Regulations 1973, Amendment No. 2</td>
<td>1987/17</td>
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<tr>
<td>The Clean Air Zone (Christchurch) Order 1977, Amendment No. 4</td>
<td>1988/97</td>
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<tr>
<td>The Clean Air Zones (Canterbury Region) Order 1984, Amendment No. 1</td>
<td>1988/98</td>
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<td>The Town and Country Planning Regulations 1978, Amendment No. 2</td>
<td>1988/191</td>
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</table>
## Eighth Schedule

### Enactments Amended

#### Part I

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Amendment</th>
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</table>
| 1908, No. 96—The Land Drainage Act 1908 (R.S. Vol. 6, p. 641) | By inserting after section 2 the following section:  
By repealing sections 50 (as amended by section 4 of the Land Drainage Amendment Act 1952 and section 8 of the Land Drainage Amendment Act 1956) and 50A (as inserted by section 2 (1) of the Land Drainage Amendment Act 1964).  
By inserting the following proviso after paragraphs (d) and (f) of section 76:  
"Provided that any such power shall be exercised subject to the Resource Management Act 1991."  
By repealing subsection (1) of section 86, and substituting the following subsection:  
"(1) Nothing in this Act shall authorise any River Board to commence or construct any river works or place any pile or other structure in, on, over, through, or across tidal lands or tidal water without complying with the Resource Management Act 1991."  
By repealing sections 4 and 5.  
By repealing section 19.  
By inserting, after section 24, the following section:  
**"24A. Exercise of ancillary rights following repeal of sections 4 and 5 of this Act—Every right, power or privilege conferred by sections 7, 9, or 10 of this Act shall continue to be exercisable by the Company in connection with the exercise of the water permits that are, by virtue of section 386 of the Resource Management Act 1991, deemed to replace the rights in relation to the river conferred by sections 4 and 5 of this Act,—  
"'(a) In the same manner, and to the same extent, as those rights,**

<p>| 1908, No. 165—The River Boards Act 1908 (R.S. Vol. 10, p. 765) |  |
| 1936, No. 7 (P)—The Whakatane Paper Mills, Limited, Water-supply Empowering Act 1936 |  |</p>
<table>
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<tr>
<th>Enactment</th>
<th>Amendment</th>
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| 1936, No. 7 (P)—The Whakatane Paper Mills, Limited, Water-supply Empowering Act 1936—continued | powers, and privileges were exercisable before the repeal of sections 4 and 5 of this Act; and  
“(b) Subject to the requirement that the Company shall, in exercising those rights, powers, and privileges, comply in all respects with the Resource Management Act 1991.” |
| 1940, No. 13—The Reserves and Other Lands Disposal Act 1940 | By repealing sections 18 and 28. |
| 1941, No. 12—The Soil Conservation and Rivers Control Act 1941 (R.S. Vol. 17, p. 607) | By inserting after section 10 the following section:  
| | By repealing subsections (1) (as substituted by section 6 (1) of the Soil Conservation and Rivers Control Amendment Act 1988), (2), and (3) of sections 16 and 19 (as amended by section 9 (1) to (3) of the Soil Conservation and Rivers Control Amendment Act 1988). |
| | By repealing subsection (2) of section 20 (as amended by section 10 of the Soil Conservation and Rivers Control Amendment Act 1988), and substituting the following subsection:  
“(2) The Board may consent in writing to access onto or over land comprised in a soil conservation reserve for the purpose of exercising a mining permit issued under Part I of the Crown Minerals Act 1991.” |
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<th>Enactment</th>
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<tr>
<td>1941, No. 12—The Soil Conservation and Rivers Control Act 1941 (R.S. Vol. 17, p. 607)—continued</td>
<td>By repealing sections 26 and 27 (as amended by section 18 of the Soil Conservation and Rivers Control Amendment Act 1988). By omitting from section 33A (1) (as substituted by section 18 of the Soil Conservation and Rivers Control Amendment Act 1988), the words “or the Water and Soil Conservation Act 1967”. By omitting from section 33B (1) (a) (as substituted by section 19 of the Soil Conservation and Rivers Control Amendment Act 1988), the words “or the Water and Soil Conservation Act 1967”. By omitting from section 33B (1) (c) (as substituted by section 20 of the Soil Conservation and Rivers Control Amendment Act 1988), the words “or under section 34 or section 36 of the Soil Conservation and Rivers Control Amendment Act 1959”. By repealing subsection (1) of section 126, and substituting the following subsection: “(1) It shall be a function of every Catchment Board to minimise and prevent damage within its district by floods and erosion.” By repealing subsection (2A) of section 126 (as inserted by section 29 of the Soil Conservation and Rivers Control Amendment Act 1988). By repealing sections 127 and 130 (as amended by section 2 (3) of the Soil Conservation and Rivers Control Amendment Act 1948). By repealing section 144 (as amended by section 34 (a) of the Soil Conservation and Rivers Control Amendment Act 1988).</td>
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<td>Enactment</td>
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<tr>
<td>1941, No. 12—The Soil Conservation and Rivers Control Act 1941 (R.S. Vol. 17, p. 607)—continued</td>
<td>By repealing section 149 (as amended and substituted by section 13 of the Soil Conservation and Rivers Control Amendment Act 1948, sections 27 and 28 of the Soil Conservation and Rivers Control Amendment Act 1959, section 48 (1) (c) of the Soil Conservation and Rivers Control Amendment Act 1988, and section 2 (d) of the Soil Conservation and Rivers Control Amendment Act (No. 2) 1988). By repealing subsection (1) of section 150 (as amended by section 4 (2) of the Soil Conservation and Rivers Control Amendment Act 1946, section 7 (1) of the Soil Conservation and Rivers Control Amendment Act 1972, section 69 (4) of the Forest and Rural Fires Act 1977, and section 43 (1) (c) of the Soil Conservation and Rivers Control Amendment Act 1988). By repealing subsection (2) of section 150. By repealing section 150α (as inserted by section 29 (1) of the Soil Conservation and Rivers Control Amendment Act 1959). By repealing sections 151 and 152 (as amended by section 15 (a) and (b) of the Soil Conservation and Rivers Control Amendment Act 1983 and section 45 of the Soil Conservation and Rivers Control Amendment Act 1988). By repealing section 152α (as inserted by section 30 of the Soil Conservation and Rivers Control Amendment Act 1959). By repealing section 155 (as amended by section 14 of the Soil Conservation and Rivers Control Amendment Act 1948, sections 2 (1) and 21 (2) of the Soil Conservation and Rivers Control Amendment Act 1952, section 14 (b) of the Soil Conservation and Rivers Control</td>
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### Eighth Schedule—continued

#### Enactments Amended—continued

#### PART I—continued

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<tr>
<th>Enactment</th>
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<tr>
<td><strong>1941, No. 12</strong>—The Soil Conservation and Rivers Control Act 1941 (R.S. Vol. 17, p. 607)—continued</td>
<td>Amendment Act 1962, section 18 of the Soil Conservation and Rivers Control Amendment Act 1983, and section 43 (2) (b) and (c) of the Soil Conservation and Rivers Control Amendment Act 1988). By repealing section 168. By repealing sections 4A and 4B. By inserting in section 5 (1), after the word “impose”, the words “for the purpose of public health and safety”. By repealing sections 5A, 8, 9, 10, and 11. By omitting from paragraph (f) of the definition of the term “Crown land” in section 2 the words “Part XX of the Local Government Act 1974 (as enacted by section 2 of the Local Government Amendment Act 1978)”, and substituting the words “Part X of the Resource Management Act 1991”. By repealing section 50 (as amended by section 2 of the Land Amendment Act 1953). By omitting from section 60 (1), (3), and (5) the words “water rights”. By repealing section 60A. By repealing subsection (5) of section 66A (as amended by section 2 of the Land Amendment Act 1975), and substituting the following subsection: “(5) Every recreation permit shall be deemed to be issued subject to the condition that the holder will comply with all local authority bylaws, rules, regulations, and requisitions, and with the provisions of the Resource Management Act 1991.” By omitting from paragraph (b) of section 82 (3A) (as inserted by section 3 (5) of the Local Government Amendment Act 1978) the words “pursuant to any of the provisions of subsections (3) to (5) of section 306 of the Local Government Act 1974”</td>
</tr>
<tr>
<td><strong>1945, No. 41</strong>—The Atomic Energy Act 1945 (R.S. Vol. 1, p. 189)</td>
<td></td>
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<tr>
<td><strong>1948, No. 64</strong>—The Land Act 1948 (R.S. Vol. 23, p. 559)</td>
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<tr>
<td>1948, No. 64—The Land Act 1948 (R.S. Vol. 23, p. 559)—continued</td>
<td>Act 1974 (as enacted by section 2 of the Local Government Amendment Act 1978), and substituting the words “pursuant to sections 238 or 239 of the Resource Management Act 1991”.</td>
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<td>By inserting in section 93 (1), after the word “subdivide”, the words “in accordance with Part X of the Resource Management Act 1991”.</td>
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<td>By repealing section 93 (3), and substituting the following subsection:</td>
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<td>“(3) The Board’s approval of a subdivision may be given subject to the condition that the lessee or licensee shall pay to the Crown the value as determined by the Board of any land that vests as road on the deposit of a survey plan pursuant to section 238 of the Resource Management Act 1991.”</td>
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<td>By omitting from section 165 (1) the words “Unless the Board considers that a mining licence under the Mining Act 1971 should be obtained, the removal”, and substituting the word “Removal”.</td>
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<td>By repealing subsection (2) of section 165.</td>
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<td>By adding to section 165 the following subsection:</td>
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<td>By repealing the definition of “Harbour Board” or “Board” in section 2 (1), and substituting the following definition:</td>
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<td>“Harbour Board” or “Board” means any Harbour Board constituted under this Act, or any local authority responsible for the</td>
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ENACTMENTS AMENDED—continued

PART I—continued

<table>
<thead>
<tr>
<th>Enactment</th>
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| 1950, No. 34—The Harbours Act 1950 (R.S. Vol. 2, p. 551)—continued | powers, functions, or duties specified in this Act:”. By repealing the definition of “Port boundaries” (as inserted by section 65 (1) of the Conservation Act 1987). By inserting in section 2 in their appropriate alphabetical order the following definitions: “‘Minister’ means the Minister of Transport: “‘Secretary’ means the Secretary of Transport:”. By repealing section 2 (1A) (as inserted by section 65 (1) of the Conservation Act 1987). By repealing section 5A (1) (as inserted by section 65 (1) of the Conservation Act 1987). By inserting, after section 7, the following section: “7A. Regional councils to have powers of Harbour Boards in certain circumstances—(1) Every regional council shall, in relation to any harbour, navigable river or lake, estuary or arm of the sea in its region (except those waters to which the Lake Taupo Regulations 1976 apply) in respect of which there is no Harbour Board, have all the powers, functions, duties, rights, exemptions, privileges, and authorities that are conferred by this Act on Harbour Boards in respect of harbours. “(2) Nothing in this section shall oblige any regional council to exercise or perform all or any of the powers, functions, duties, rights, exemptions, privileges, or authorities conferred or imposed on it by this section.” By repealing section 8 (as substituted by section 8(3) of the Local Government Amendment Act 1979).
EIGHTH SCHEDULE—continued

ENACTMENTS AMENDED—continued

PART I—continued

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<tr>
<td></td>
<td>By repealing section 9 (as amended by section 2 (1) of the Harbours Amendment Act 1956 and section 8 (1) of the Harbours Amendment Act 1959).</td>
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<td>By repealing sections 10, 11, and 12 (as amended by section 2 (1) of the Harbours Amendment Act 1956).</td>
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<td>By repealing section 13.</td>
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<td>By omitting subparagraphs (i) and (iv) of section 143B (3) (a), and substituting the following subparagraph: “(i) The Resource Management Act 1991.”.</td>
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<td></td>
<td>By repealing sections 145, 147, and 148 (as amended by section 65 (1) of the Conservation Act 1987).</td>
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<tr>
<td></td>
<td>By repealing section 146A (as substituted and amended by section 4 of the Harbours Amendment Act 1980, section 65 (1) of the Conservation Act 1987, section 2 of the Harbours Amendment Act 1988, and section 2 of the Harbours Amendment Act (No. 5) 1988).</td>
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<td>By repealing section 149.</td>
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<td>By repealing sections 150 and 151.</td>
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<td>By omitting from section 154 (1) the words “low-water mark”, and substituting the words “mean high-water springs”.</td>
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</table>
| | By repealing section 156 (as amended by sections 7 (1) and 8 (1) of the Harbours
<table>
<thead>
<tr>
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### Eighth Schedule—continued

#### Enactments Amended—continued

**Part I—continued**

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<thead>
<tr>
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<tr>
<td></td>
<td>By repealing section 175 (as amended by section 37 of the Harbours Amendment Act 1977, section 65 (1) of the Conservation Act 1987, and section 11 (1) of the State-Owned Enterprises Amendment Act 1987).</td>
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<tr>
<td></td>
<td>By repealing section 175a (as amended by section 38 of the Harbours Amendment Act 1977).</td>
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<td></td>
<td>By repealing section 175b (as amended by section 38 of the Harbours Amendment Act 1977, section 81 (1) of the Survey Act 1986, and section 65 (1) of the Conservation Act 1987).</td>
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<td></td>
<td>By repealing section 175c (as substituted by section 15 (1) of the Harbours Amendment Act 1968).</td>
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<td>By repealing section 175d (as inserted by section 39 of the Harbours Amendment Act 1977).</td>
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<td></td>
<td>By repealing subsection (1) of section 176 (as substituted by section 40 of the Harbours Amendment Act 1977).</td>
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<td></td>
<td>By omitting from subsection (3) of section 176 (as substituted by section 40 of the Harbours Amendment Act 1977) the words &quot;subsection (1) or&quot; and &quot;where subsection (1) is contravened, to a fine not exceeding $20,000 and, where subsection (2) is contravened&quot;.</td>
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<td></td>
<td>By repealing subsection (5) of section 176 (as substituted by section 40 of the Harbours Amendment Act 1977).</td>
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<td></td>
<td>By omitting from subsection (1) of section 177 (as substituted by section 40 of the Harbours Amendment Act 1977 and amended by section 2 of the Harbours Amendment Act (No. 4) 1988) the words &quot;subsection (1) or&quot;.</td>
</tr>
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<td>By omitting from subsection (1) of section 177A (as substituted by section 40 of the</td>
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<td>Enactment</td>
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| 1950, No. 34—The Harbours Act 1950 (R.S. Vol. 2, p. 551)—continued | Harbours Amendment Act 1977) the words “subsection (1) or”.

By repealing section 178 (as amended by section 12 of the Harbours Amendment Act 1964, section 41 of the Harbours Amendment Act 1977, and section 65 (1) of the Conservation Act 1987).

By repealing section 178A (as inserted by section 3 of the Harbours Amendment Act (No. 2) 1974 and amended by section 42 of the Harbours Amendment Act 1977).

By repealing paragraphs (7), (34), (34A), (36), (38), and (42) of section 232.

By repealing section 232A (as inserted by section 16 (1) of the Harbours Amendment Act 1968 and amended by section 65 of the Harbours Amendment Act 1977 and section 65 (1) of the Conservation Act 1987).

By repealing subsection (1) of section 234 (as amended by section 65 (1) of the Harbours Amendment Act 1977), and substituting the following subsection:

“(1) Bylaws made under section 232 of this Act—

“(a) Shall not be repugnant to the provisions of this Act, or the General Harbour Regulations made hereunder, or to the Resource Management Act 1991 or any other Act; and

“(b) Shall be read subject to the Resource Management Act 1991 and any regional coastal plan or regional plan; and

“(c) Shall not come into operation until after a copy under the seal of the Board has been sent to, and the receipt thereof has been acknowledged by, the Minister.”
<table>
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<tr>
<th>Enactment</th>
<th>Amendment</th>
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</table>
| 1950, No. 34—The Harbours Act 1950 (R.S. Vol. 2, p. 551)—continued | By inserting in paragraph (i) of section 241 (1), after the word “rules”, the words “regarding safety and good navigation”.

By omitting from subsection (1) of section 241b (as inserted by section 71 of the Harbours Amendment Act 1977 and amended by section 65 (1) of the Conservation Act 1987 and section 11 (1) of the State-Owned Enterprises Amendment Act 1987) the words “Minister of Conservation made after consultation with the”.

By omitting from subparagraph (iii) of section 241b (1) (a) (as inserted by section 7 (1) of the Harbours Amendment Act 1977 and amended by section 65 (1) of the Conservation Act 1987) the words “the Minister of Conservation or the Director-General of Conservation, made after consultation with”.

By omitting from subsection (2) of section 241c (as amended by section 65 (1) of the Conservation Act 1987) the words “after consultation with the Minister of Conservation” wherever they appear.

By repealing section 242 (as amended by section 16 of the Harbours Amendment Act 1964, section 11 (1) of the Harbours Amendment Act 1965, section 19 (1), (2), and (3) of the Harbours Amendment Act 1968, section 72 (1), (2), and (3) of the Harbours Amendment Act 1977, and section 2 of the Harbours Amendment Act 1989), and section 243.

By repealing section 244 (as substituted by section 7 (2) of the Harbours Amendment Act 1965 and section 73 of the Harbours Amendment Act 1977).

By repealing section 244a (as inserted by section 2 of the Harbours Amendment Act 1975 and amended by section 65 (1) of the Conservation Act 1987).
1951, No. 19—The Valuation of Land Act 1951
(R.S. Vol. 21, p. 851)

By repealing the definition of “District Scheme” in section 2, and substituting the following definition:

“‘District Plan’ means a district plan within the meaning of the Resource Management Act 1991.”

By omitting from the definition of “minerals” in section 2 the words “and also includes geothermal energy within the meaning of the Geothermal Energy Act 1953 and petroleum within the meaning of the Petroleum Act 1937:”, and substituting the words “and includes petroleum within the meaning of Part I of the Crown Minerals Act 1991.”

By omitting from section 25E(1) (as substituted by section 15 of the Valuation of Land Amendment Act 1988) the words “pursuant to section 90 of the Town and Country Planning Act 1977”, and substituting the words “under section 10 of the Resource Management Act 1991”.

By repealing paragraph (a) of section 25E(2), (as so substituted), and substituting the following paragraph:

“(a) The actual use to which the land is being put is a permitted activity in an operative district plan in force for the district in which the land is situated (whether or not such a plan is for the time being actually in force); and”.

By omitting from section 25E(5) (as so substituted) the words “the use of those parcels of land being a use permitted as of right in an operative district scheme in force for the district in which those parcels of land are situated (whether or not such a scheme is for the time being actually in force)”, and substituting the words “the use of those parcels of land being a permitted activity in an operative district plan in force for the
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<td>1951, No. 19—The Valuation of Land Act 1951 (R.S. Vol. 21, p. 851)—continued</td>
<td>district in which those parcels of land are situated (whether or not such a plan is for the time being actually in force)&quot;. By omitting paragraph (a) of section 25E (1) (as inserted by section 16 of the Valuation of Land Amendment Act 1988), and substituting the following paragraphs: &quot;(a) Heritage covenants under the Historic Places Act 1980; or &quot;(aa) Heritage orders under the Resource Management Act 1991; or&quot;. By repealing subparagraphs (i), (ii), and (iii) of section 358 (1) (f) (as substituted by section 2 of the Land Settlement Promotion and Land Acquisition Amendment Act 1969), and substituting the following subparagraphs: &quot;(i) Any land of 4000 square metres or over in area which is provided for under any operative regional plan or proposed or operative district plan under the Resource Management Act 1991 as a reserve, or as a public park, or for recreation purposes, or as private open space, or which is subject to a heritage requirement or order, or any proposed such purpose; or &quot;(ii) Any land of 2 hectares or over in area for which agricultural use is a permitted, provisional, or discretionary activity under any such proposed or operative district scheme&quot;. By repealing paragraph (a) of section 35H (3) (as inserted by section 3 (1) of the Land Settlement Promotion and Land Acquisition Amendment Act 1969), and substituting the following paragraph:</td>
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1952, No. 34—The Land Settlement Promotion and Land Acquisition Act 1952 (R.S. Vol. 3, p. 139)—continued

"(a) That the land is not provided as a reserve or as a public park, or for recreation purposes, or as private open space or any proposed such purpose or is not subject to a heritage order under any operative regional plan or proposed or operative district plan under the Resource Management Act 1991; and ".

By repealing paragraph (b) of section 35H (3) (as inserted by section 3 (1) of the Land Settlement Promotion and Land Acquisition Amendment Act 1969), and substituting the following paragraph:

"(b) That where the land is not provided for in a regional or district plan for any of the purposes specified in paragraph (a) of this subsection, the land is unlikely to be required for any such purpose. For the purposes of this paragraph, the Tribunal may accept as sufficient evidence that the land is likely to be used for any purpose specified in paragraph (a) of this subsection, a certificate by a local authority within the meaning of the Resource Management Act 1991 that any land comprised in the transaction, although not provided for in the plan for that purpose, is the subject of a requirement for a heritage order under section 189 of that Act or may be required for any of the other purposes specified
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<tr>
<td>1952, No. 34 — The Land Settlement Promotion and Land Acquisition Act 1952 (R.S. Vol. 3, p. 139) — continued</td>
<td>in paragraph (a) of this subsection; and”.</td>
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<td>1952, No. 51 — The Property Law Act 1952 (R.S. Vol. 22, p. 773)</td>
<td>By repealing subparagraph (i) of section 104d (1) (c) (as inserted by section 4 of the Property Law Amendment Act 1975), and substituting the following subparagraph: “(i) Designated for a public work in an operative or proposed district plan under the Resource Management Act 1991.”</td>
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<td>By omitting from section 129 (8) (as substituted by section 5 of the Property Law Amendment Act 1957) the words “or the Mining Act 1971”, and substituting the words “or Part I of the Crown Minerals Act 1991”.</td>
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<td>By omitting from section 129a (1) (c) (as inserted by section 12 (2) of the Property Law Amendment Act 1975) the words “of the Town and Country Planning Act 1977”, and substituting the words “of the Resource Management Act 1991”.</td>
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<td>By omitting from section 129a (12) (as inserted by section 12 (2) of the Property Law Amendment Act 1975) the words “or the Mining Act 1971”, and substituting the words “or Part I of the Crown Minerals Act 1991”.</td>
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|                                                                          | By repealing section 129a (15) (as inserted by section 12 (2) of the Property Law Amendment Act 1975), and substituting the following subsection: “(15) Nothing in Part X of the Resource Management Act 1991 shall apply to any transfer, exchange, or other disposition of any land made in
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<td><strong>1952, No. 51—The Property Law Act 1952 (R.S. Vol. 22, p. 773)—continued</strong></td>
<td>pursuance of an order of the Court made under this section.”</td>
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<td>By repealing section 129c (2) (a) (as inserted by section 12 (2) of the Property Law Amendment Act 1975), and substituting the following paragraph:</td>
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<td>“(a) Any land which may be used for residential purposes under rules in the relevant proposed or operative district plan.”</td>
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| | By omitting from the proviso to section 129c (5) (as inserted by section 12 (2) of the Property Law Amendment Act 1975) the words “by a local authority under any of the provisions of the Town and Country Planning Act 1977 or the Local Government Act 1974”, and substituting the words “made by a heritage protection authority under the provisions of Part VIII of the Resource Management Act 1991”.
<p>| <strong>1952, No. 52—The Land Transfer Act 1952 (R.S. Vol. 22, p. 551)</strong> | By repealing paragraph (a) of section 90A (9) (as substituted by section 3 (1) of the Land Transfer Amendment Act 1961), and substituting the following paragraph: |
| | “For the purposes of paragraph (a) of section 243 of the Resource Management Act 1991 to be an instrument by which every easement specified therein is granted or reserved.” |
| | By repealing paragraph (b) of section 90c (1) (as substituted by section 3 of the Land Transfer Amendment Act 1961), and substituting the following paragraph: |
| | “The creation of the easement is a condition on which the subdivision has been consented to pursuant to section 220 of the Resource Management Act 1991.” |</p>
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<td>1953, No. 94—The Maori Affairs Act 1953 (R.S. Vol. 8, p. 13)</td>
<td>By omitting from section 173 (3) the expression “sections 430 and 432”, and substituting the expression “sections 432 and 432A”. By repealing section 430. By omitting from section 431 the words “or section 430”. By repealing section 432, and substituting the following sections: “432. When partition of land to comply with Resource Management Act 1991 as to subdivisions—(1) This section applies to every partition of land by the Court except for a partition into parcels to be held by owners who are members of the same hapu. “(2) Subject to the provisions of this section, the Court shall not partition any land to which this section applies, otherwise than in accordance with the Resource Management Act 1991. “(3) Without limiting subsection (2) of this section,— “(a) A partition of land shall be deemed to be a subdivision of land within the meaning of section 218 of the Resource Management Act 1991; and “(b) Sections 120 and 121 of the Resource Management Act 1991 (relating to appeals to the Planning Tribunal) shall apply to any decision of a territorial authority in relation to any application for a subdivision consent which is required by this section. “(4) Notwithstanding anything in this section or in the Resource Management Act 1991, any condition imposed by the Court requiring a contribution of land for reserve purposes or land in lieu of reserves shall only require any such land to be set aside from that part of the land which is to be alienated.</td>
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### Enactment: The Maori Affairs Act 1953 (R.S. Vol. 8, p. 13) — continued

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| 1953, No. 94 — The Maori Affairs Act 1953 (R.S. Vol. 8, p. 13) — continued | "(5) Notwithstanding subsection (2) of this section or anything to the contrary in the Resource Management Act 1991—

"(a) The territorial authority shall not require, as a condition of a subdivision consent, that a contribution in land (being a contribution for reserve purposes or land in lieu of reserves) be made in respect of any part of the land in respect of which the Court has certified to the territorial authority as being of special historical significance or spiritual or emotional association with the Maori people or any group or section of the Maori people; and

"(b) No survey plan relating to the partition shall be required to be deposited by the District Land Registrar or Registrar of Deeds in accordance with Part X of the Resource Management Act 1991.

"(6) Subject to subsection (7) of this section, the Court may make a partition order to which this section applies in respect of any land if a subdivision consent under the Resource Management Act 1991 has been obtained for the partition and the consent has not lapsed.

"(7) At the time of making any partition order to which this section applies, the Court shall—

"(a) Make such orders as it considers necessary, having regard to Part X of the Resource Management Act 1991, to ensure that in respect of any
Amendment
1953, No. 94—The Maori Affairs Act 1953 (R.S. Vol. 8, p. 13)—continued

conditions of the subdivision consent that have not been complied with, adequate provision is made for such compliance; and

“(b) Make such orders as may be necessary to—

“(i) Vest in the territorial authority any esplanade reserve required to be set aside under section 230 of the Resource Management Act 1991; and

“(ii) Vest in the Crown any land to which section 235 of that Act applies,—

and sections 229 to 237 of the Resource Management Act 1991 shall apply with all necessary modifications.

“(8) Without limiting subsection (7) of this section, the Court shall make an order—

“(a) Vesting in the territorial authority the land that, in accordance with the subdivision consent, is required for the construction of roads or the making of reserves; and

“(b) Declaring that the land is dedicated for the construction of roads or (as the case may require) is set apart as reserves for the purposes specified in the subdivision consent subject to the Reserves Act 1977.

“(9) Notwithstanding anything in subsections (7) and (8) of this section, the Court may, instead of setting apart any land as a reserve under the Reserves Act 1977 (including any esplanade reserve), recommend that it be set apart as a reservation under section 439 of this Act.
### EIGHTH SCHEDULE—continued

#### ENACTMENTS AMENDED—continued

#### PART I—continued

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| 1953, No. 94—The Maori Affairs Act 1953 (R.S. Vol. 8, p. 13)—continued | “(10) Except as otherwise provided in subsections (7), (8), and (9) of this section, sections 220 to 244 (inclusive) of the Resource Management Act 1991 shall not apply to any partition to which this section applies.

“(11) No vesting order shall be made under this section in respect of any land which is subject to any lease, licence, mortgage, charge, or other encumbrance.

“(12) Where any land proposed to be dedicated or set apart under this section is subject to any lease, licence, mortgage, charge, or other encumbrance, the Court, with the consent of the person entitled to the benefit of the encumbrance and the vesting order, shall vest the land free from that encumbrance accordingly.

“(13) A vesting order in favour of the territorial authority made for the purposes of this section shall have no force or effect until the territorial authority has, under its seal, accepted the dedication and has certified in its acceptance that the relevant conditions of the subdivision consent have been complied with to the satisfaction of the territorial authority.

“(14) On the completion of any vesting order made by the Court for the purposes of this section, the Registrar of the Court shall forward the order to the District Land Registrar, together with a certified copy of the acceptance by the territorial authority of the dedication to which the vesting order relates, and the District Land Registrar shall register the order.

“(15) In this section, 'subdivision consent' has the same meaning as in section 2 (1) of the Resource
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432A. **Restrictions may be imposed in respect of other partitions**—(1) This section applies to every partition of land by the Court where the partition is into parcels to be held by owners who are members of the same hapu.

“(2) The Court shall, in respect of every partition to which this section applies, impose a restriction that the land shall not be alienated under this Act otherwise than in accordance with this section.

“(3) Where an application to which this section applies is made to the Court to confirm the alienation of Maori land, the Court—

“(a) May, if it considers it appropriate, publicly notify the application and invite submissions from the territorial authority and any other person who is likely to be affected by the application; and

“(b) May, subject to subsection (4) of this section,—

"(i) Refuse to confirm the alienation; or

"(ii) Vary the terms of the alienation; or

"(iii) Confirm the alienation subject to such conditions as the Court considers fair and reasonable,—

having regard to the provisions of section 106 (subdivisions not to be granted), section 108 (conditions of resource consents), section 220 (conditions as to subdivision), and sections 229 to 237 (which relate to
### EIGHTH SCHEDULE—continued

#### ENACTMENTS AMENDED—continued

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| 1953, No. 94—The Maori Affairs Act 1953 (R.S. Vol. 8, p. 13)—continued    | esplanade reserves) of the Resource Management Act 1991 and the fact that the land has previously been partitioned without a subdivision consent being obtained under that Act.                                                                 4 The Court shall not, in confirming an alienation under subsection (3) of this section, require as a condition of such confirmation, a contribution of land for reserve purposes or land in lieu of reserves to be set aside—  
4 (a) From any part of the land other than from that part of the land which is to be alienated; or  
4 (b) Which the Court is satisfied is of special historical significance or spiritual or emotional association with the Maori people or any group or section of Maori people. |
| 1953, No. 102—The Geothermal Energy Act 1953 (Reprinted 1975, Vol. 3 p. 2019) | By repealing paragraph (e) of section 472 (2), and substituting the following paragraph:  
By repealing sections 3, 3A, and 4.  
By repealing sections 6 to 11, 13, and 14.  
By repealing section 15 (1) and (2).  
By omitting from section 15 (3) the words “any survey pegs placed in the ground in connection with any survey lawfully carried on under this Act, or any valve or instrument being used in connection with any such survey or with”.  
By repealing paragraphs (a), (b), (d), (e), and (f) of section 16 (2). |
1954, No. 82—The Tasman Pulp and Paper Company Enabling Act 1954

By repealing section 5 (as substituted by section 5 of the Tasman Pulp and Paper Company Enabling Amendment Act 1986), and substituting the following section:


“(a) The authorisations conferred by section 3 of this Act to take water from the river; and

“(b) The authorisations conferred by section 4 of this Act to discharge trade wastes into the river—in force and exercisable by the company immediately before the commencement of this section shall be deemed to be water permits or discharge permits (as the case may be) granted under the Resource Management Act 1991, and the provisions of that Act, so far as they are applicable and with all necessary modifications, shall apply accordingly in respect of those authorisations, the conditions to which they were subject immediately before the commencement of this section, and any conditions imposed by the Board under section 4 (3) of this Act (including any direction given under section 50 (3) of this Act).”

By repealing section 5c (as so substituted).

By repealing subsection (1) of section 50 (as so substituted), and substituting the following subsection:

“(1) Notwithstanding the provisions of section 4 (3) of this Act but subject to subsections (2) to (6) of this section, the company, in respect of the discharge authorised by section 4 of this Act, need not comply with—

“(a) Any condition, restriction, or prohibition imposed under this
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<td>1954, No. 82—The Tasman Pulp and Paper Company Enabling Act 1954—continued</td>
<td>Act or the Resource Management Act 1991; or “(b) Any regulations or plan in force under that Act— requiring that the natural colour and clarity of the river not be changed to a conspicuous extent.” By repealing subsection (4) of section 5D (as so substituted), and substituting the following subsection: “(4) The company may appeal to the Planning Tribunal against any determination or direction of the Board under subsection (2) or subsection (3) of this section; and the provisions of the Resource Management Act 1991, with the necessary modifications, shall apply in respect of the appeal.” By repealing subsection (1) of section 5E (as so substituted), and substituting the following subsection: “(1) In this section, ‘waste’ means waste as defined in section 2 (1) of the Water and Soil Conservation Act 1967 before its repeal by the Resource Management Act 1991.” By inserting in section 5E, after subsection (2), the following subsection: “(2A) Every such right or authorisation shall be deemed to be a discharge permit granted under the Resource Management Act 1991 subject to such conditions imposed by the Board under subsection (7) of this section.” By repealing subsection (7) of section 5E, and substituting the following subsection: “(7) Any direction given under subsection (4) of this section shall be deemed to be a condition of the discharge permit.”</td>
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<td>1954, No. 82—The Tasman Pulp and Paper Company Enabling Act 1954—continued</td>
<td>By repealing subsection (8) of section 5E (as so substituted).</td>
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<td>By inserting the following section after section 3:</td>
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<td>By repealing section 10.</td>
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<td>By omitting from section 11(2) the words “Subject to the Town and Country Planning Act 1977”, and substituting the words “Subject to the Resource Management Act 1991”</td>
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<td>By repealing section 12.</td>
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<td>By repealing paragraphs (a) and (b) of section 18.</td>
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<td>By repealing section 34 (as amended by sections 48, 49 (1) and (2), and 52 of the Soil Conservation and Rivers Control Amendment Act 1988).</td>
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<td>By repealing section 35 (as amended by sections 48 and 49 (1), (2), (3), and (4) of the Soil Conservation and Rivers Control Amendment Act 1988).</td>
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<td>By repealing section 36 (as amended by section 50 (1) of the Soil Conservation and Rivers Control Amendment Act 1988 and as repealed and substituted by section 50 (2) of the Soil Conservation and Rivers Control Amendment Act 1988).</td>
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<td>By repealing section 37 (as amended by section 51 of the Soil Conservation and Rivers Control Amendment Act 1988).</td>
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<td>By repealing section 38.</td>
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| 1962, No. 20—The Forestry Encouragement Act 1962 (R.S. Vol. 17, p. 213) | By omitting from the definition of “lease” in section 2 the words “a mining privilege within the meaning of the Mining Act 1971, and a coal mining lease or coal mining right under the Coal Mines Act 1979.”, and substituting the words “including a permit within the meaning of Part I of the Crown Minerals Act 1991”.
| 1966, No. 51—The Airport Authorities Act 1966 (R.S. Vol. 17, p. 1) | By repealing paragraph (a) of section 3n (as inserted by section 4 of the Airport Authorities Amendment Act 1986).
| 1969, No. 141—The Public Bodies Leases Act 1969 (R.S. Vol. 18, p. 621) | By repealing paragraphs (j) and (k) of section 15 (1) (as inserted by section 4 (1) of the Legal Aid Amendment Act 1974), and substituting the following paragraphs:
> “(j) All applications, submissions, and appeals under the Resource Management Act 1991 or to the Planning Tribunal under any other Act:
> “(k) All applications, submissions, and appeals to any Council or body in any case where an appeal in relation to its decision lies to the Planning Tribunal.”
| 1969, No. 47—The Legal Aid Act 1969 (1975, Vol. 3, p. 2111) | By adding to section 14E (as inserted by section 6 of the Marine Farming Amendment Act 1975), the following subsection:
> “(7) This section shall cease to apply in respect of any region on the date that
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By repealing sections 21 to 31.
By inserting, after section 42A, the following section:
"42a. Application of certain sections to coastal permits under Resource Management Act 1991—For the purposes of sections 32 (a), 33, 36, 37, 38, 41, 42, 48 (1) (c) to (k), and 48 (2) of this Act, any reference to a leased area or a licensed area includes a reference to any area—
"(a) Which is part of the coastal marine area as defined by the Resource Management Act 1991; and
"(b) In respect of which a coastal permit has been granted under that Act for any marine farming activity."
By omitting from section 47 (1) the words "the Coal Mines Act 1979, the Mining Act 1926, the Mining Act 1971, the Petroleum Act 1937, or the Iron and Steel Industry Act 1959", and substituting the words "the Crown Minerals Act 1991".
By omitting from section 47 (1) the words "any of those Acts", and substituting the words "that Act".
By inserting in section 50 (1), after the figure "1963.", the words "the Resource Management Act 1991".
By omitting such of the Third Schedule as relates to the Mining Act 1971.
| 1971, No. 51—The Stamp and Cheque Duties Act 1971 | By inserting, after section 2, the following section:
"2A. Relationship to Resource Management Act 1991—(1) Except as

1972, No. 15—The Unit Titles Act 1972 |
EIGHTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART I—continued

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<td>1972, No. 15—The Unit Titles Act 1972—continued</td>
<td>provided in subsections (2) and (3) of this section, nothing in this Act shall derogate from the provisions of the Resource Management Act 1991.</td>
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<td>“(2) Nothing in section 11 or Part X of the Resource Management Act 1991 shall apply to sections 45, 46, 47, 48, 49, or Part IV of this Act.</td>
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<td>“(3) Nothing in section 11 or Part X of the Resource Management Act 1991 shall apply to a deposit of a stage unit plan or a complete unit plan in accordance with the Unit Titles Amendment Act 1979.”</td>
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<td>By omitting from subsection (2) of section 5A (as so inserted) the words “Town and Country Planning Act 1977”, and substituting the words “Resource Management Act 1991”.</td>
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<td>By omitting from section 6 the words “Water and Soil Conservation Act 1967”, and substituting the words “Resource Management Act 1991”.</td>
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<td>By omitting from section 8 the words “Water and Soil Conservation Act 1967”, and substituting the words “Resource Management Act 1991”.</td>
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<td>By repealing section 11 (as substituted by section 3 of the Lake Wanaka Preservation Amendment Act (No. 2) 1988), and substituting the following section:</td>
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| | “11. Harbour works on lake restricted—No regional council shall grant a resource consent under the Resource Management Act 1991 authorising any activity in relation to the
EIGHTH SCHEDULE—continued  
ENACTMENTS AMENDED—continued  
PART I—continued

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Lake that is referred to in section 13 or section 14 of that Act without first—
“(a) Seeking the advice of the Guardians of Lake Wanaka on the proposed activity concerned, and considering all advice received from them within a reasonable time of its being sought; and
“(b) Having regard to the purposes of this Act.”

By repealing subsection (7) of section 22B (as substituted by section 4 of the Marine Pollution Amendment Act 1980), and substituting the following subsection:
“(7) Notwithstanding anything in this Part of this Act, no permit shall authorise anything which is contrary to a regional plan or a resource consent granted under the Resource Management Act 1991.”

By repealing subsections (2) and (3) of section 69 (as amended by section 8 of the Marine Pollution Amendment Act 1977 and section 11 of the Marine Pollution Amendment Act 1990), and substituting the following subsection:
“(2) Part XII of the Resource Management Act 1991 shall not apply with respect to the discharge into water of pollutants from a ship that is not a New Zealand ship (as defined in section 2 of the Shipping and Seamen Act 1952) in contravention of section 15 (1) of that Act, and sections 6 and 10 and Parts IV and VI of this Act shall apply to every such discharge.”

By repealing in section 2 the definitions of “District scheme”, “operative”, and “proposed district schemes”, and substituting the following definition:
### EIGHTH SCHEDULE—continued
#### ENACTMENTS AMENDED—continued

#### PART I—continued

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| 1974, No. 66—The Local Government Act 1974 (R.S. Vol. 20, p. 1)—continued | “'District plan', 'operative' in relation to a district plan, and 'proposed plan' have the same meaning as in section 2 of the Resource Management Act 1991”.

By repealing in section 2 the definition of “Planning Tribunal”, and substituting the following definition:

“'Planning Tribunal' means the Planning Tribunal as defined in the Resource Management Act 1991:”.

By inserting in subsection (4) of section 37p (as inserted by section 5 of the Local Government Amendment Act (No. 2) 1989), after the the date ‘31st day of December 1990’, the words “or the commencement date of the Resource Management Act 1991, whichever is the later,”.

By repealing paragraphs (d) and (e) of section 37s (1) (as inserted by section 5 of the Local Government Amendment Act (No. 2) 1989), and substituting the following paragraph:


By omitting from paragraph (f) of section 37s (1) (as so inserted) the words “and the Water and Soil Conservation Act 1967”.

By omitting from paragraph (a) of section 101zz (2) (as inserted by section 14 of the Local Government Amendment Act (No. 2) 1989) the words “or the Town and Country Planning Act 1977”, and substituting the words “or those powers listed in section 34 (4) of the Resource Management Act 1991”.

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<tr>
<td>1974, No. 66—The Local Government Act 1974</td>
<td>By repealing section 101zz(3) (as so inserted).</td>
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<td>(R.S. Vol. 20, p. 1)—continued</td>
<td>By repealing Part XX of the Act.</td>
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<td></td>
<td>By omitting from section 315 (as enacted by section 2 (1) of the Local Government Amendment Act 1978) the definition of “scheme plan”.</td>
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<td></td>
<td>By omitting from section 315 (as enacted by section 2 (1) of the Local Government Amendment Act 1978) the definition of “Survey plan”, and substituting the following definition:</td>
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<td>“‘Survey plan’ has the same meaning as in the Resource Management Act 1991:”</td>
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<td>By omitting from paragraph (e) of section 319 (as enacted by section 2 (1) of the Local Government Amendment Act 1978) the words “district scheme”, and substituting the words “district plan”.</td>
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<td></td>
<td>By omitting from paragraph (b) of section 320 (2) (as enacted by section 2 (1) of the Local Government Amendment Act 1978) the words “approved by the Council under Part XX of this Act”, and substituting the words “approved by the Council under Part X of the Resource Management Act 1991”.</td>
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<td></td>
<td>By omitting from subsection (1) of section 321 (as enacted by section 2 (1) of the Local Government Amendment Act 1978) the words “on a scheme plan”, and substituting the words “within land to be subdivided pursuant to the Resource Management Act 1991”.</td>
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<td>By repealing sections 321A (as substituted by section 30 (1) of the Local Government Amendment Act 1985) and 322 (as enacted by section 2 (1) of the Local Government Amendment Act 1978 and amended by section 39 (1) of</td>
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EIGHTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART I—continued

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By adding to section 325 (as enacted by section 2 of the Local Government Amendment Act 1978 and amended by section 8 (1) of the Local Government Amendment Act 1979) the following subsection:

"(3) This section and the Eleventh Schedule shall expire on the 1st day of January 1993."

By repealing sections 327 and 328 (as both enacted by section 2 of the Local Government Amendment Act 1978).

By inserting, as section 327A, the following section:

"327A. Building-line restrictions—Where a building-line restriction has been imposed under this Act or any former enactment, and the council subsequently determines that the building-line restriction be cancelled, the council shall send notice of cancellation to the District Land Registrar or Registrar of Deeds, as the case may require, who shall amend his or her records accordingly."

By omitting from section 331 (1) (as enacted by section 2 of the Local Government Amendment Act 1978 and amended by section 39 (1) of the Local Government Amendment Act 1985), the words "Without limiting the generality of its powers in relation to any scheme plan".

By omitting from section 336 (8) (as substituted by section 8 (1) of the Local Government Amendment Act 1979) the words "and the appeal shall be made and determined by that Tribunal in the manner prescribed by the Town and Country Planning Act 1977 and the"

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<td>regulations under that Act”, and substituting the words “and the appeal shall be made and determined by that Tribunal in the manner prescribed by the Resource Management Act 1991 and any regulations made under that Act”.</td>
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<td>By omitting from section 340 (1) (as enacted by section 2 of the Local Government Amendment Act 1978) the words “Where a building-line restriction has been imposed under this Act or any other Act in relation to the whole or any part of any road, then notwithstanding anything to the contrary in this Act, but subject to the Town and Country Planning Act 1977”, and substituting the words “Subject to the Resource Management Act 1991,”.</td>
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<td>By omitting the first proviso to section 341 (1) (as enacted by section 2 of the Local Government Amendment Act 1978), and substituting the following proviso: “Provided that no such lease shall be granted for any purpose that would be in contravention of any provision of the Resource Management Act 1991”.</td>
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<td>By repealing subsection (3) of section 345 (as enacted by section 2 of the Local Government Amendment Act 1978 and amended by section 65 (1) of the Conservation Act 1987), and substituting the following subsections: “(3) Where any road or any portion of a road along the mark of mean high water springs of the sea, or along the bank of any river or the margin of any lake (as the case may be) is stopped, there shall become vested in the council as an esplanade reserve for the purposes specified in section 229 (2) of the Resource Management Act 1991,”.</td>
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| 1974, No. 66—The Local Government Act 1974 (R.S. Vol. 20, p. 1)—continued | “(a) A strip of land forming part of the land that ceases to be road not less than 20 metres wide along the mark of mean high water springs of the sea, or along the bank of any river or the margin of any lake (as the case may be); or “(b) The full width of the land which ceases to be road,— whichever is the lesser. “(4) The obligation under subsection (3) of this section to set aside a strip of land not less than 20 metres in width as an esplanade reserve is subject to any rule included in a district plan under section 77 of the Resource Management Act 1991. “(5) For the purposes of subsections (3) and (4) of this section,— “‘Esplanade reserve’ has the same meaning as in section 229 (1) of the Resource Management Act 1991: “‘Lake’ and ‘River’ have the same meanings as in section 2 (1) of the Resource Management Act 1991. “(6) On the issue of any certificate of title for land which has become vested in the Council as an esplanade reserve under subsection (3) of this section, the District Land Registrar shall enter thereon a memorandum that the land is subject to that subsection.” By omitting from paragraph (b) of section 346c (2) (as enacted by section 2 of the Local Government Amendment Act 1978 and as amended by section 7 (1) of the Local Government Amendment Act 1979) the words “and the objection shall be made and determined by the Planning Tribunal in the manner
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| 1974, No. 66—The Local Government Act 1974 (R.S. Vol. 20, p. 1)—continued | prescribed by the Town and Country Planning Act 1977 and the regulations under that Act”, and substituting the words “and the objection shall be made and determined by the Planning Tribunal in the manner prescribed by the Resource Management Act 1991 and the regulations under that Act.” 
By omitting from section 346G (3) (as enacted by section 2 of the Local Government Amendment Act 1978) the words “Subject to section 162 of the Town and Country Planning Act 1977”, and substituting the words “Subject to section 299 of the Resource Management Act 1991”. 
By omitting from section 347 (as enacted by section 2 of the Local Government Amendment Act 1978) the words “Subject to the Town and Country Planning Act 1977”, and substituting the words “Subject to the Resource Management Act 1991”. 
By omitting from section 347 (as enacted by section 2 of the Local Government Amendment Act 1978) the word “widths”. 
By repealing the proviso to section 363 (1) (as enacted by section 2 of the Local Government Amendment Act 1978). 
By omitting from subsection 2 of section 363 (as enacted by section 2 of the Local Government Amendment Act 1978) the words “Parts XX and”, and substituting the word “Part”. 
By repealing section 363(3) (as enacted by section 2 of the Local Government Amendment Act 1978). 
By omitting from subsection (2) of section 373 (as enacted by section 2 of the Local Government Amendment Act 1978) the words “for the purposes of the Town...
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| 1974, No. 66—The Local Government Act 1974 (R.S. Vol. 20, p. 1)—continued | and Country Planning Act 1977", and substituting the words “for the purposes of the Resource Management Act 1991”. By repealing subsection (3) of section 373 (as enacted by section 2 of the Local Government Amendment Act 1978), and substituting the following subsection: “(3) Any road improvement land may be designated as such in a district plan, whether proposed or operative, or in a change or review of any district plan commenced under the Resource Management Act 1991.” By repealing section 375 (as enacted by section 2(1) of the Local Government Amendment Act 1979), and substituting the following section: “375. Nothing in this Part of this Act shall derogate from any of the provisions of the Resource Management Act 1991 or the Health Act 1956.” By repealing section 398 (as enacted by section 2(1) of the Local Government Amendment Act 1979), and substituting the following section: “398. Nothing in this Part of this Act shall derogate from any of the provisions of the Resource Management Act 1991 or of the Health Act 1956.” By repealing section 421 (as enacted by section 2(1) of the Local Government Amendment Act 1979), and substituting the following section: “421. Nothing in this Part of this Act shall derogate from any of the provisions of the Resource Management Act 1991.” By omitting from section 429 (as enacted by section 2(1) of the Local Government Amendment Act 1979) the words “Subject to the Soil Conservation and
### EIGHTH SCHEDULE—continued

#### ENACTMENTS AMENDED—continued

#### PART I—continued

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<td>1974, No. 66—The Local Government Act 1974 (R.S. Vol. 20, p. 1)—continued</td>
<td>Rivers Control Act 1941&quot;, and substituting the words &quot;Subject to the Resource Management Act 1991&quot;. By repealing section 440 (as enacted by section 2 of the Local Government Amendment Act 1979), and substituting the following section: &quot;440. Nothing in this Part of this Act shall derogate from any of the provisions of the Resource Management Act 1991.&quot; By omitting from subsection (7) of section 459 (as enacted by section 2 of the Local Government Amendment Act 1979) the words &quot;Subject to Part XX of this Act&quot;. By repealing section 470 (as enacted by section 2 of the Local Government Amendment Act 1979), and substituting the following section: &quot;470. This Part to be subject to Resource Management Act 1991—Nothing in this Part of this Act shall derogate from the provisions of the Resource Management Act 1991.&quot; By repealing section 488 (as enacted by section 2 of the Local Government Amendment Act 1979), and substituting the following section: &quot;488. This Part to be subject to Resource Management Act 1991—Nothing in this Part of this Act shall derogate from any of the provisions of the Resource Management Act 1991 or of the Health Act 1956.&quot; By omitting from section 498 (1) (as enacted by section 2 of the Local Government Amendment Act 1979) the words &quot;or the Water and Soil Conservation Act 1967&quot;, and substituting the words &quot;or the Resource Management Act 1991&quot;.</td>
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Resource Management

EIGHTH SCHEDULE—continued

ENACTMENTS AMENDED—continued

PART 1—continued

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<td>By inserting in section 501A (as inserted by section 42 of the Local Government Amendment Act 1980), after the words “subject to the provisions of this Act”, the words “or the Resource Management Act 1991”</td>
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<td>By repealing section 502 (as enacted by section 2 of the Local Government Amendment Act 1979), and substituting the following section: “502. This Part to be subject to Resource Management Act 1991—Nothing in this Part of this Act shall derogate from the provisions of the Resource Management Act 1991.”</td>
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<td>By omitting from subsection (1) of section 551 (as enacted by section 2 of the Local Government Amendment Act 1979) the words “Subject to Part XX of this Act”, and substituting the words “Subject to the Resource Management Act 1991”.</td>
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<td>By omitting from subsection (2) of section 572 (as substituted by section 35 of the Local Government Amendment Act 1985), the words “Subject to Part XX of this Act”, and substituting the words “Subject to the Resource Management Act 1991”.</td>
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</table>
| | By omitting from section 594ZN (as inserted by section 34 of the Local Government Amendment Act (No. 2) 1989) the words “deemed to be a use permitted as of right under the Town and Country Planning Act 1977 until the next completion of the review of this district scheme and appropriate part of
EIGHTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART I—continued

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<td>1974, No. 66—The Local Government Act 1974 (R.S. Vol. 20, p. 1)—continued</td>
<td>the district scheme, and thereafter the status of that use shall be as provided from time to time in order under the district scheme, and substituting the words &quot;deemed to be a permitted activity under the Resource Management Act 1991 until the next completion of the review of the district plan or appropriate part of the district plan, and thereafter the status of that use shall be as provided from time to time in or under the district plan&quot;. By omitting from section 637 (1) (as enacted by section 2 of the Local Government Amendment Act 1979), the words &quot;Subject to the Town and Country Planning Act 1977&quot;, and substituting the words &quot;Subject to the Resource Management Act 1991&quot;. By omitting from subsection (9) of section 643 (as enacted by section 2 of the Local Government Amendment Act 1979), the words &quot;Part XX of this Act shall apply accordingly to any resubdivision of the land&quot;, and substituting the following words &quot;the Resource Management Act 1991 shall apply accordingly to any resubdivision of the land&quot;. By omitting from subsection (1) of section 644b (as enacted by section 2 of the Local Government Amendment Act 1979) the words &quot;subject to the Town and Country Planning Act 1977&quot;, and substituting the words &quot;subject to the Resource Management Act 1991&quot;. By omitting from the proviso to subsection (1) of section 656 (as enacted by section 2 of the Local Government Amendment Act 1979) the words &quot;and the Water and Soil Conservation Act 1967&quot;, and substituting the words &quot;and the Resource Management Act 1991&quot;.</td>
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| 1974, No. 66—The Local Government Act 1974 (R.S. Vol. 20, p. 1)—continued | By inserting at the beginning of subsection (1) of section 660 (as enacted by section 2 of the Local Government Amendment Act 1979) the words “Subject to the Resource Management Act 1991”. By omitting from paragraph (a) of section 675 (1) (as substituted by section 13 (1) of the Local Government Amendment Act (No. 3) 1986), the words “Clean Air Act 1972 and of any regulations or Orders in Council made under that Act”, and substituting the words “Resource Management Act 1991 and of any plan, rule, or regulation made under that Act”. By repealing paragraph (b) of section 675 (1) (as substituted by section 13 (1) of the Local Government Amendment Act (No. 3) 1986). By omitting from section 680 (as enacted by section 2 of the Local Government Amendment Act 1979), the words “(31) to (44)”, and substituting the words “(31), (32), (34) to (44)”. By repealing subsections (9), (24), (25), and (27) of section 684 (as enacted by section 2 of the Local Government Amendment Act 1979). By omitting from subsection (28) of section 684 (as enacted by section 2 of the Local Government Amendment Act 1979) the words “Subject to the Water and Soil Conservation Act 1967”, and substituting the words “Subject to the Resource Management Act 1991”. By inserting in subsection (5) of section 710 (as inserted by section 89 (1) of the Dog Control and Hydatids Act 1982), after the words “Hydatids Act 1982”, the words “and any enforcement officer acting under any power conferred by the Resource Management Act 1991”.


### EIGHTH SCHEDULE—continued

**Enactments Amended—continued**

**PART I—continued**

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<td>1974, No. 66—The Local Government Act 1974 (R.S. Vol. 20, p. 1)—continued</td>
<td>By inserting in clause 1 of the Tenth Schedule (as inserted by section 3 (1) of the Local Government Amendment Act 1978), after the words “together with an explanation as to”, the words “why the road is to be stopped and”. By adding to clause 1 of the Tenth Schedule the words “The plan shall separately show any area of esplanade reserve which will become vested in the council under section 345 (3) of this Act.” By repealing clause 6 of the Tenth Schedule (as so inserted), and substituting the following clause: “6. The Planning Tribunal shall consider the district plan, the plan of the road proposed to be stopped, the council’s explanation under clause 1 of this Schedule, and any objection made thereto by any person, and confirm, modify, or reverse the decision of the council which shall be final and conclusive on all questions.” By inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item: “The Hazards Control Commission.” By omitting from subsection (7) of section 4 (as substituted by section 3 of the Fire Service Amendment Act 1978 and amended by section 247 (4) of the Public Works Act 1981) the words “and the Town and Country Planning Act 1977”. By repealing subparagraphs (i) and (ii) of section 67 (4) (d), and substituting the following subparagraphs: “(i) The rules of an operative district plan under the Resource Management Act 1991 which relate to that land or any change of those rules</td>
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<td>1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)</td>
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<td>1975, No. 42—The Fire Service Act 1975</td>
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<td>1976, No. 65—The Income Tax Act 1976</td>
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<td>1976, No. 65—The Income Tax Act 1976—continued</td>
<td>after the acquisition of that land by the taxpayer; or “(ii) The likelihood of the imposition of such rules or of any change to such rules; or”. By inserting in subparagraphs (v) and (vi) of section 67 (4)(d), after the words “prohibition or covenant”, the words “including any designation or heritage order”.</td>
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<td>1977, No. 52—The Forest and Rural Fires Act 1977 (R.S. Vol. 23, p. 407)</td>
<td>By repealing subsection (3) of section 19, and substituting the following subsection: “(3) Every fire control measure carried out in respect of any land, structure, or vegetation shall have regard to any relevant national or regional policy statements, regional or district plans, or regulations made under the Resource Management Act 1991”. Provided that such a notice of intention shall not be necessary where a district plan makes provision for the use of the land as a reserve or the land is designated as a proposed reserve under an operative district plan under the Resource Management Act 1991”. By inserting in subsection (2A) of section 16 (as substituted by section 3 of the Reserves Amendment Act 1983) the following paragraph: “(g) Created under Part X of the Resource Management Act 1991—”. By repealing paragraph (b) of section 16 (5) (as substituted by section 4 (1) of the Reserves Amendment Act 1979 and amended by section 3 of the Reserves Amendment Act 1983), and substituting the following paragraph:</td>
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<td>1977, No. 66—The Reserves Act 1977—continued</td>
<td>&quot;(b) The intended use of the land is in conformity with the relevant operative district plan under the Resource Management Act 1991.&quot;</td>
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<pre><code>                                                                                                                                                                                                                                                                                            |
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<p>|                                                    | By inserting in the second proviso to section 28 (2) (a) (as inserted by section 7 of the Reserves Amendment Act 1979), after the words &quot;or any local purpose reserve for esplanade purposes created under the said Part XXV or Part II or under Part XX of the Local Government Amendment Act 1978&quot;, the words &quot;or under Part X of the Resource Management Act 1991&quot;. |
|
|                                                    | By inserting in section 24 (7) after the words &quot;Local Government Amendment Act 1978&quot;, the words &quot;or section 220 (1) (b) of the Resource Management Act 1991&quot;.                                                                                                                                                                                                 |
|
|                                                    | By repealing paragraphs (a) and (b) of section 24A (3) (as inserted by section 10 of the Reserves Amendment Act 1979), and substituting the following paragraphs:                                                                                                                                                                                                                                               |
|                                                    | &quot;(a) The operative district plan in force under the Resource Management Act 1991 for the district in which the reserve is situated:                                                                                                                                                                                                                                                                     |
|                                                    | &quot;(b) Any resource consent applying to the reserve granted by the council in accordance with Part VI of that Act&quot;.                                                                                                                                                                                                                                                                               |
|
|                                                    | By repealing the proviso to paragraph (i) of section 53 (1), and substituting the following proviso:                                                                                                                                                                                                                                                                                          |
|                                                    | &quot;Provided that any such power in relation to watercourses shall be exercised subject to the Resource Management Act 1991.&quot;.                                                                                                                                                                                                                                                                 |
|
|                                                    | By omitting from paragraph (j) of section 58 (1) the words &quot;and subject to the Harbours Act 1950&quot;, and substituting                                                                                                                                                                                                                                                                              |</p>
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<td>1977, No. 66—The Reserves Act 1977—continued</td>
<td>the words “and subject to the Resource Management Act 1991”. By repealing the proviso to paragraph (d) of section 55 (1), and substituting the following proviso:</td>
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<td>“Provided that any such power in relation to watercourses shall be exercised subject to the Resource Management Act 1991.” By omitting from paragraph (f) of section 55 (2) the words “and subject to the Harbours Act 1950”, and substituting the words “and subject to the Resource Management Act 1991”. By repealing paragraph (b) of section 56 (3) (as inserted by section 18 (2) of the Reserves Amendment Act 1979), and substituting the following paragraph: “(b) Is made following the granting of any appropriate resource consent in accordance with Part VI of the Resource Management Act 1991.” By repealing paragraph (b) of section 58A (3) (as inserted by section 19 (1) of the Reserves Amendment Act 1979 and amended by the Reserves Amendment Act 1983), and substituting the following paragraph: “(b) Is made following the granting of any appropriate resource consent granted by the council in accordance with Part VI of the Resource Management Act 1991.” By omitting such of the Second Schedule as relates to the Mining Act 1971. By repealing the definition of “Protection notice” in section 2, and substituting the following definitions in their appropriate places: “‘Heritage order’ means a provision made in a district plan to give</td>
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<td>1980, No. 16—The Historic Places Act 1980</td>
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“‘Heritage requirement’ means a notice given by the Trust under section 189 of the Resource Management Act 1991:”.  
By omitting from the definition of “Territorial authority” in section 2 the words “or, as the case may require, a Maritime Planning Authority under the Town and Country Planning Act 1977”.  
By omitting from the definition of “Tribunal” in section 2 the words “established under the Town and Country Planning Act 1977:”, and substituting the words “constituted under the Resource Management Act 1991:”.  
By omitting from section 36 (1) the words “issue a protection notice declaring that building and all or part of its associated land to be protected for the purposes of this Act.”, and substituting the words “give notice to the territorial authority of its requirement for a heritage order in accordance with the Resource Management Act 1991 to protect the whole or part of the building and its surroundings for the purposes of this Act”.  
By repealing subsections (2), (3), and (4) of section 36, and substituting the following subsection:  
By repealing sections 37 and 38 (as amended by section 2 of the Historic Places Amendment Act (No. 2) 1988).
EIGHTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART I—continued

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| 1980, No. 16—The Historic Places Act 1980—continued | By omitting from subsections (1) and (2) of section 39 the words “a protection notice”, and substituting the words “heritage order”.

By omitting from subsection (2) of section 39 the words “restrictions, or prohibitions imposed under section 38 of this Act”, and substituting the words “imposed under section 193 or section 194 of the Resource Management Act 1991”.

By omitting from section 40 the words “subject to a protection notice as for a public work under the Public Works Act 1928, if such acquisition is necessary to give effect to an order of the Tribunal made pursuant to section 125c of the Town and Country Planning Act 1977.”, and substituting the words “subject to a heritage order in accordance with section 197 of the Resource Management Act 1991, if such acquisition is necessary to give effect to an order of the Planning Tribunal made under section 198 of that Act”.

By omitting from section 41 (1) the words “a protection notice”, and substituting the words “a heritage order”.

By omitting from section 41 (8) the words “prescribed by the Town and Country Planning Act 1977 and the regulations made thereunder”, and substituting the words “prescribed by the Resource Management Act 1991 and the regulations made thereunder”.

By repealing section 47, and substituting the following section:

“47. (1) The Trust may request any local authority to record any registered site as such in the district plan or regional plan under the Resource Management Act 1991, and on receipt of
## EIGHTH SCHEDULE—continued

### ENACTMENTS AMENDED—continued

#### PART I—continued

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| 1980, No. 16—The Historic Places Act 1980—continued | the request, the local authority shall so record the site.  
“(2) Where the Trust is satisfied that it is no longer necessary for any registered site to continue to be so recorded, the Trust shall notify the local authority, and on receipt of the notification the local authority shall amend its plan accordingly.” |
| 1980, No. 66—The National Parks Act 1980 | By repealing paragraph (b) of section 51 (1), and substituting the following paragraph:  
“(b) A building is subject to a heritage order which has been included in a district plan in accordance with Part VIII of the Resource Management Act 1991.” |
By omitting from paragraph (b) of section 54 the words “protection notice”, and substituting the words “heritage order”. |

By repealing subsection (5) of section 7.  
By repealing subsection (6) of section 7, and substituting the following subsection:  
“(6) No foreshore shall be declared to be a park or to be added to any park, except on the joint recommendation of the Minister and the Minister of Transport, and, where the foreshore is under the control of a regional council under the Resource Management Act 1991, except with the consent of that body.” |

By repealing section 78.  
By omitting from the definition of “Planning Tribunal” in section 2 the words “under the Town and Country Planning Act 1977”, and substituting the words “under the Resource Management Act 1991”.  
By omitting from section 24 (14) (as substituted by section 38 (1) of the Town...
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| 1981, No. 35—The Public Works Act 1981—continued | and Country Planning Amendment Act 1983) the words “Subject to sections 162 and 162h of the Town and Country Planning Act 1977”, and substituting the words “Subject to sections 299 and 308 of the Resource Management Act 1991”. By omitting from section 25 (as amended by section 38 (2) of the Town and Country Planning Amendment Act 1983) the words “Notwithstanding anything in section 184 of the Town and Country Planning Act 1977”. By repealing subsection (8) of section 27, and substituting the following subsection: “(8) Nothing in this section shall derogate from the provisions of Part III of the Resource Management Act 1991.” By repealing sections 36 (as amended by section 10 (1) and (2) of the Public Works Amendment Act 1988), 37, 38, and 39, and substituting the following section: “36A. Transitional procedures for defining middle line—Where a notice has been issued in the Gazette defining the middle line of a road or railway line under sections 36 to 39 of this Act, that notice shall continue to have effect until its expiry or until the fifth anniversary of the date of commencement of the Resource Management Act 1991, whichever date first occurs, as if sections 36 to 39 of this Act had not been repealed.” By repealing subsection (3) of section 46, and substituting the following subsection: “(3) Nothing in this section shall derogate from the provisions of the Resource Management Act 1991.” By repealing paragraphs (a) and (b) of the definition of the term “notified” in section 59 (as amended by section 2 (7)
of the Public Works Amendment Act (No. 2) 1987 and section 17 (2) of the Public Works Amendment Act 1988), and substituting the following paragraphs:

“(a) Made the subject of a requirement by a Minister of the Crown, a local authority, or a network utility operator under section 168 of the Resource Management Act 1991, or by a heritage protection authority under section 189 of that Act, or by any such body or person under clause 4 of Part I of the First Schedule to that Act or under the corresponding provisions of any former enactment; or

“(b) Designated for a public work or a project or work, or made the subject of a heritage order, included in an operative or proposed district plan under the Resource Management Act 1991; or”.

By repealing subsection (1) of section 71, and substituting the following subsection:

“(1) For the purposes of this section, the term ‘relevant date’ means—

“(a) The date on which notification was given under section 18 (1) (a) of this Act; or

“(b) The date on which a requirement was notified under section 167 of the Resource Management Act 1991,—

as the case may be.”

By omitting subsection (9) of section 71, and substituting the following subsection:
### 1981, No. 35—The Public Works Act 1981—continued

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<td>&quot;(9) Every such appeal shall be made and determined by the Planning Tribunal in the manner prescribed by the Resource Management Act 1991 and any regulations made under that Act.&quot;</td>
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</table>

By inserting in section 111A (1) (as inserted by section 2 of the Public Works Amendment Act (No. 3) 1987), after paragraph (b), the following paragraph:

"(ba) A network utility operator within the meaning of section 166 of the Resource Management Act 1991 which has approval as a requiring authority under section 167 of that Act; or”.

By inserting in section 111A (2) (as inserted by section 2 of the Public Works Amendment Act (No. 3) 1987), after the words “application for any right,”, the word “designation,”.

By repealing section 118, and substituting the following section:

"118. **Application of other Acts to stopped roads**—(1) Notwithstanding section 117 of this Act, where any road or any portion of a road along the mark of mean high water springs of the sea, or along the bank of any river, or the margin of any lake (as the case may be) is stopped under section 116 of this Act—

"(a) Section 345 (3) of the Local Government Act 1974 (relating to esplanade reserves) shall apply to the land comprising the road or portion of the road so stopped if that land was formerly a road vested in a local authority (including a state highway vested in a local authority):"
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<th>Enactment</th>
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<tr>
<td>1981, No. 35—The Public Works Act 1981—continued</td>
<td>“(b) Part IVa of the Conservation Act 1987 (relating to marginal strips) shall apply to the land comprising the road or portion of the road so stopped if that land was formerly a Government road or a state highway or other road vested in the Crown. “(2) For the purpose of subsection (1) of this section, 'lake' and 'river' have the same meaning as in section 2(1) of the Resource Management Act 1991.” By omitting from paragraphs (e), (f), and (g) of section 166 the words “Subject to compliance with the Water and Soil Conservation Act 1967”, where they appear, and substituting the words “Subject to compliance with the Resource Management Act 1991”. By repealing section 185A (as inserted by section 47 of the Public Works Amendment Act 1988). By repealing section 186. By repealing section 187 (as amended by section 9 of the Airport Authorities Amendment Act 1986, section 2(7) of the Public Works Amendment Act (No. 2) 1987, and section 48 of the Public Works Amendment Act 1988). By repealing section 187A (as inserted by section 11(1) of the State-Owned Enterprises Amendment Act 1987). By repealing sections 188 and 189 (both amended by section 9 of the Airport Authorities Amendment Act 1986 and section 49 of the Public Works Amendment Act 1988). By omitting from subsection (3) of section 190 the words “The Water and Soil Conservation Act 1967”, and substituting the words “The Resource Management Act 1991”</td>
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EIGHTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART I—continued

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<tr>
<td>1981, No. 35—The Public Works Act 1981—continued</td>
<td>By repealing subsection (9) of section 191 and substituting the subsection:</td>
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<td>“(9) Nothing in this section shall derogate from the provisions of the Resource Management Act 1991”.</td>
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<td>By omitting from subsection (1) of section 218 (as amended by section 66 of the Public Works Amendment Act 1988), the words “the Water and Soil Conservation Act 1967”, and substituting the words “the Resource Management Act 1991”.</td>
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<td></td>
<td>By inserting in section 224 (20), after the words “any party to the agreement”, the words “which is a requiring authority within the meaning of the Resource Management Act 1991”.</td>
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<td>By omitting from section 224 (20) the words “Part VI of the Town and Country Planning Act 1977”, and substituting the words “Part VIII of the Resource Management Act 1991”.</td>
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<td>By repealing section 235.</td>
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<td>By inserting after section 3 the following section:</td>
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<td>By adding to section 31 the following subsection:</td>
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<td>“(9) Nothing in this section shall derogate from the provisions of Part III of the Resource Management Act 1991.”</td>
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<td>By repealing subparagraph (ii) of section 3 (2) (a), and substituting the following subparagraph:</td>
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<td>By inserting in paragraph (f) of section 3 (2), after the words “Part II of the Petroleum Act 1937”, the words “as if”</td>
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<td>1982, No. 27—The Gas Act 1982</td>
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### EIGHTH SCHEDULE—continued

#### ENACTMENTS AMENDED—continued

#### PART I—continued

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<tr>
<td>1982, No. 27—The Gas Act 1982—continued</td>
<td>Part II of that Act had not been repealed”.</td>
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<tr>
<td>1982, No. 156—The Official Information Act 1982 (R.S. Vol. 21, p. 579)</td>
<td>By inserting in the First Schedule, in its appropriate alphabetical order, the following item: “Hazards Control Commission”.</td>
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<td>By adding to section 6, as subsection (3), the following subsection:</td>
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<td>“(3) When preparing a fisheries management plan for a fisheries management area which overlaps with any coastal marine area (as defined by section 2 of the Resource Management Act 1991), the Director-General shall have regard to any regional coastal plan or any other management plan prepared under the Resource Management Act 1991.”</td>
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<td></td>
<td>By omitting from section 10 (3) the words “Part VIII of the Town and Country Planning Act 1977”, and substituting the words “Part XI of the Resource Management Act 1991”.</td>
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</table>
|                                                | By omitting from section 10 (9) the words “and the provisions of subsections (2) to (11) of section 162 and of section 162A of the Town and Country Planning Act 1977 shall, with any necessary modifications, apply in respect of the report or recommendation in the same manner as they apply in respect of a determination of the Planning Tribunal under the Town and Country Planning Act 1977”, and substituting the words “and the provisions of sections 299 and 308 of the Resource Management Act 1991 shall, with any necessary
Amendments to fisheries management plans—(1) Any person may request an amendment to a fisheries management plan which is for the time being in force, and sections 9 and 10 of this Act shall, with all necessary modifications, apply to any such request.

“(2) The Director-General shall, within 28 days of receiving a request under subsection (1) of this section,—

“(a) Agree to the request; or

“(b) Refuse to consider the change, but only on the grounds—

“(i) That the request is frivolous or vexatious; or

“(ii) That the request does not supply sufficient information or is not of sufficient clarity to enable the Director-General to properly evaluate its implications; or

“(iii) That the provisions that the request relates to have been considered and given effect to or rejected in the past 2 years; or

“(iv) That the fishery management plan has been operative for the last 2 years.”

By omitting from section 54H (as inserted by section 74 of the Maori Fisheries Act 1989) the words “and the provisions of subsections (2) to (11) of section 162 and of section 162A of the Town and Country Planning Act 1977 shall, with any necessary modifications, apply in
<table>
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| 1983, No. 14—The Fisheries Act 1983—continued                           | respect of the report or recommendation in the same manner as they apply in respect of a determination of the Planning Tribunal under the Town and Country Planning Act 1977”, and substituting the words “and the provisions of sections 299 and 308 of the Resource Management Act 1991 shall, with any necessary modifications, apply in respect of the report or recommendation in the same manner as they apply in respect of a decision of the Planning Tribunal under the Resource Management Act 1991”.
|                                                                          | By omitting from section 84 (5) the words “water right granted or otherwise authorised pursuant to the Water and Soil Conservation Act 1967 or any other Act, and for this purpose it shall be a sufficient defence to produce a certificate to that effect from the Regional Water Board in the area of which the right was purported to be granted or otherwise authorised”, and substituting the words “discharge permit granted under the Resource Management Act 1991 or was a permitted activity in the relevant regional plan under that Act, and for this purpose it shall be a sufficient defence to produce a certificate to that effect from the regional council in the area of which the permit was purported to be granted or activity otherwise permitted”.
|                                                                          | By repealing section 5 (as substituted by section 4 of the National Development Act Repeal Act 1986), and substituting the following section:
## EIGHTH SCHEDULE—continued

### ENACTMENTS AMENDED—continued

#### PART I—continued

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<tr>
<td>1983, No. 38—The Synthetic Fuels Plant (Effluent Disposal) Empowering Act 1983—continued</td>
<td>“5. Application of Resource Management Act 1991—Subject to the provisions of this Act, the right granted by section 3 (1) of this Act shall have the same force and effect as if it had been granted pursuant to the Resource Management Act 1991; and the provisions of that Act (other than sections 128, 129, 130, 131, and 132), so far as is practicable and with all necessary modifications, shall apply accordingly in respect of that right and of the terms, conditions, restrictions, and prohibitions set out in the Schedule to this Act.”</td>
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<td>1986, No. 127—The Environment Act 1986</td>
<td>By repealing paragraph (c) in the definition of “consent” in section 2, and substituting the following paragraph: “(c) Any operative regional plan or district plan or proposed plan under the Resource Management Act 1991.”</td>
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<td>By repealing the definition of “contaminant” in section 2, and substituting the following definition: “‘Contaminant’, means any substance (including gases, liquids, solids, and micro-organisms) or energy (including radioactivity and electromagnetic radiation but excluding noise) or heat, that either by itself or in combination with the same, similar, or other substances, energy, or heat— “(a) Changes or has the potential, when discharged into water, to change the physical, chemical, or biological condition of that water; or</td>
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Note: The table and text provide a structured overview of enactments and amendments related to the Resource Management Act 1991, highlighting specific sections and definitions that are being amended or repealed.
**EIGHTH SCHEDULE—continued**

**ENACTMENTS AMENDED—continued**

**PART I—continued**

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<tr>
<td>1986, No. 127—The Environment Act 1986—continued</td>
<td>“(b) Changes or has the potential, when discharged onto or into land or into air, to change the physical, chemical, or biological condition of the land or air onto or into which it is discharged.”.</td>
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<td>By inserting into paragraph (a) of the definition of “environment” in section 2, after the word “parts”, the words “including people and communities”.</td>
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<td>By repealing paragraph (c) in the definition of “environment” in section 2, and substituting the following paragraphs:</td>
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<td>“(c) Those physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes; and</td>
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<td>“(d) The social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters.”.</td>
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<td>By repealing the definition of “hazardous substance”, and substituting the following definition:</td>
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<td>“‘Hazardous substance’ has the same meaning as in section 344 of the Resource Management Act 1991:”.</td>
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<td>By omitting from the definition of “pollution” in section 2, the words “includes air pollution within the meaning of the Clean Air Act 1972, and”.</td>
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<td>By omitting from the Schedule to the Act the following items:</td>
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<td>“The Clean Air Act 1972”</td>
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<td>“The Geothermal Energy Act 1953”</td>
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<td>“The Noise Control Act 1982”</td>
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"The Town and Country Planning Act 1977"  
"The Water and Soil Conservation Act 1967"  
and substituting the following items:  
"The Resource Management Act 1991"  
"Section 70AA of the Transport Act 1962." |
| 1986, No. 124—The State-Owned Enterprises Act 1986 | By repealing subsections (9), (9A), and (9b) of section 23 (as substituted by section 6(2) of the State-Owned Enterprises Amendment Act 1987 and amended by section 2 of the State-Owned Enterprises Amendment Act 1988).  
By omitting from section 27D(5) (as inserted by section 10(1) of the Treaty of Waitangi (State Enterprises) Act 1988) the words "within the meaning of section 271 or section 272 of the Local Government Act 1974", and substituting the words "within the meaning of the Resource Management Act 1991."  
By repealing paragraph (e) of section 28(1).  
By omitting from paragraph (e) of the definition of "assets" in section 29(1) the words "planning rights, water rights, and clean air licences", and substituting the words "and any kind of consent granted under the Resource Management Act 1991,".  
By repealing the Fifth Schedule.  
By omitting from section 23 the words "pursuant to the Water and Soil Conservation Act 1967", and substituting the words "under the Resource Management Act 1991".  
By repealing subsection (5) of section 24 (as inserted by section 15 of the Conservation Law Reform Act 1990), and substituting the following subsection: |
| 1987, No. 65—The Conservation Act 1987 | |
EIGHTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART I—continued

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<th>Enactment</th>
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<tr>
<td>1987, No. 65—The Conservation Act 1987—continued</td>
<td>“(5) Nothing in this section shall limit or affect section 230 of the Resource Management Act 1991.” By omitting from section 31 (2) the words “any of the objects specified in section 10 of the Soil Conservation and Rivers Control Act 1941, a catchment board or other local body”, and substituting the words “any of the functions specified in section 30 (1)(c), (e), and (g) of the Resource Management Act 1991, a regional council”. By omitting from section 39 (6) (as amended by section 22 of the Conservation Law Reform Act 1990) the words “water right granted or otherwise authorised pursuant to the Water and Soil Conservation Act 1967 or any other Act, and for this purpose it shall be a sufficient defence to produce a certificate to that effect from the Regional Water Board in the area of which the right was purported to be granted or otherwise authorised”, and substituting the words “discharge permit granted under the Resource Management Act 1991 or was a permitted activity in the relevant regional plan under that Act, and for this purpose it shall be a sufficient defence to produce a certificate to that effect from the regional council in the area of which the permit was purported to be granted or activity otherwise permitted”.</td>
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## EIGHTH SCHEDULE—continued
### ENACTMENTS AMENDED—continued

### PART I—continued

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<tr>
<td>1987, No. 174—The Local Government Official Information and Meetings Act 1987</td>
<td>By repealing subsection (2) of section 2.</td>
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<td>By inserting in section 7, after paragraph (b), the following paragraph:</td>
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<td>&quot;(ba) In the case only of an application for a resource consent, or water conservation order, or a requirement for a designation or heritage order, under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of waahi tapu; or&quot;.</td>
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<td>By repealing paragraph (b) of section 48 (2).</td>
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<td>1988, No. 97—The Rating Powers Act 1988</td>
<td>By repealing in section 2 the definition of &quot;district scheme&quot;, and substituting the following definition:</td>
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<td>&quot;‘District plan’ has the same meaning as in the Resource Management Act 1991.&quot;.</td>
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<td>By omitting from section 35 (3) the words &quot;or the Water and Soil Conservation Act 1967&quot;.</td>
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<td>By repealing section 81 (1) (b) and (c), and subsections (2) and (3), and substituting the following paragraphs and subsections:</td>
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<td>&quot;(b) The activities that are permitted, controlled, or discretionary activities for the area in which the property is situated, and the rules to which the property is subject under an operative district plan under the</td>
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EIGHTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART I—continued

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<td>&quot;(c) The activities that are proposed to be permitted, controlled, or discretionary, and the proposed rules for the area in which the property is situated under a proposed district plan under the Resource Management Act 1991 that has been publicly notified under that Act; but only if—</td>
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<td>&quot;(i) No submissions have been made by any person under clause 6 of the First Schedule to that Act concerning the activities proposed to be permitted in the area in which the property is situated, and the time for making of such submissions has expired; or</td>
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<td>&quot;(ii) All such submissions have been determined by the local authority.</td>
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<td>&quot;(2) Where a type or group of property is determined in accordance with paragraph (b) or (c) of subsection (1) of this section, any property that is used in contravention of an operative or proposed district plan shall be classified under this section in a like manner to other similar uses in the district.</td>
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<td>&quot;(3) The fact that an appeal is pending against a decision of the local authority on a submission concerning the proposed rules to be applied to an area or the activities which are proposed to be permitted, controlled, or discretionary for an area in which the property is situated shall not prevent the local authority using the criteria in subsection (1) (c) of this section as one of</td>
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## EIGHTH SCHEDULE—continued

### ENACTMENTS AMENDED—continued

### PART I—continued

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<td>1988, No. 97—The Rating Powers Act 1988—continued</td>
<td>the criteria for determining a type or group of property for the purposes of subsection (1) of this section; but if the decision on any such appeal changes the proposed rules to apply to that area or the activities which are proposed to be permitted, controlled, or discretionary for that area, the property shall be classified in a like manner to other properties subject to similar rules in accordance with this section with effect from the commencement of the rating year in which the decision on the appeal is given.”</td>
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<td>By repealing subparagraph (ii) of section 175 (1) (a), and substituting the following subparagraph:</td>
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<td>“(ii) A review or change of the district plan under the Resource Management Act 1991, the activities which are permitted, controlled, or discretionary and the rules for the area in which the property is situated are changed, and the types of activities which are permitted, controlled, or discretionary in that area and the rules for that area relate exclusively or principally to commercial or industrial use; or”</td>
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<td>By repealing paragraph (b) of section 175 (1), and substituting the following paragraph:</td>
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<td>“(b) Pursuant to the said section 25a a special rateable value has been determined in respect of any rateable property situated in an area in respect of which no district plan was for the time being in force, and, on the coming into force of an</td>
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<tr>
<td>1988, No. 97—The Rating Powers Act 1988—continued</td>
<td>By repealing subparagraph (ii) of section 175 (2) (a), and substituting the following subparagraph: “(ii) A review or change of the district plan under the Resource Management Act 1991, the activities which are permitted, controlled, or discretionary and the rules for the area in which the property is situated are changed, and the types of activities which are permitted, controlled, or discretionary in that area and the rules for that area relate exclusively or principally to commercial or industrial use; or”.</td>
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By repealing paragraph (b) of section 175 (2) (as amended by section 2 of the Rating Powers Amendment Act (No. 2) 1989), and substituting the following paragraph: “(b) Pursuant to the said section 25c a special rateable value has been determined in respect of any rateable property situated in an area in respect of which no district plan was for the time being in force, and, on the coming into force of an operative or proposed district plan for that area, the types of activities which are permitted, controlled, or discretionary...

By repealing paragraph (b) of section 175(3), and substituting the following paragraph:

“(b) Pursuant to a review or change of the district plan under the Resource Management Act 1991 or the coming into force of a district plan the types of activities which are permitted, controlled, or discretionary and the rules for the property relate exclusively or principally to the purpose for which the property was being used,—”.

By repealing paragraph (c) of section 186(3).

By omitting so much of the First Schedule as relates to the Geothermal Energy Act 1953.

By omitting so much of the First Schedule as relates to the Iron and Steel Industry Act 1959.

By omitting so much of the First Schedule as relates to the Water and Soil Conservation Act 1967.

By omitting so much of the First Schedule as relates to the Noise Control Act 1982.

By omitting from the definition of “Planning Tribunal” in section 43 the words “Town and Country Planning Act 1977”, and substituting the words “Resource Management Act 1991”.

By repealing section 45.

By omitting from section 48(8) the words “Water and Soil Conservation Act 1967”, and substituting the words “Resource Management Act 1991”.

By omitting from section 61(10) the words “Water and Soil Conservation Act
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<td>1989, No. 75—The Transit New Zealand Act 1989—continued</td>
<td>1967”, and substituting the words “Resource Management Act 1991”. By repealing section 72. By omitting from paragraphs (b) and (d) of section 73 the words “middle line”, and substituting the word “route”. By omitting from paragraphs (e) and (f) of section 73 the words “Water and Soil Conservation Act 1967”, and substituting the words “Resource Management Act 1991”. By omitting from section 15 (5) the expression “$1,500” in both places where it occurs, and substituting in each case the expression “$250”. By omitting from section 15 (5) (a) the expression “$15,000”, and substituting the expression “$16,500”. By omitting from section 15 (5) (b) the expression “$20,000”, and substituting the expression “$22,000”. By omitting from section 16 (4) (a) the expression “$6,000”, and substituting the expression “$6,600”. By omitting from section 16 (4) (b) the expression “$15,000”, and substituting the expression “$16,500”. By repealing section 17 (2), and substituting the following subsection: “(2) On or before the 31st day of January and the 31st day of July in each year, every holder of a prospecting licence shall pay to the Secretary, in respect of each prospecting licence held,— “(a) A levy of $1,000, or such lesser amount as may be prescribed, for the immediately preceding period of 6 months ended with the 31st day of December or the 30th day of June, as the case may be, if the prospecting</td>
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| 1989, No. 140—The Ministry of Energy (Abolition) Act 1989—continued      | "(b) A levy of $250, or such lesser amount as may be prescribed, for the immediately preceding period of 6 months ended with the 31st day of December or the 30th day of June, as the case may be, if the prospecting licence was not worked during that period."
|                                                                          | By omitting from section 18 (4) the expression "$3,000", and substituting the expression "$3,300".                                                                                                        |
|                                                                          | By repealing subsections (1) and (2) of section 20, and substituting the following subsections:                                                                                                          |
|                                                                          | "(1) In this section, unless the context otherwise requires, expressions defined in the Geothermal Energy Act 1953 or in the Geothermal Energy Regulations 1961 shall have the meanings so defined.                                    |
|                                                                          | "(2) Every owner of a bore which exceeds, or in the opinion of the Secretary is likely to exceed, a temperature of 70° celsius at any depth of the bore (other than a bore which has been properly abandoned) shall pay to the Secretary, within 30 days after receipt of an invoice from the Secretary, an annual levy as provided by this section."
|                                                                          | By omitting from subsection (3) of section 20 the word "user", and substituting the words "owner to whom subsection (2) of this section applies".                                                                 |
|                                                                          | By omitting from the said subsection (3) the words "from which geothermal energy is used".                                                                                                                  |
|                                                                          | By omitting from subsections (5), (6), and (8) of section 20 the word "user" wherever it occurs, and substituting in each case the word "owner".                                                                 |
By omitting from subsection (8) of section 20 the word "users" in both places where it occurs, and substituting in each case the word "owners".

By omitting from section 21 (2) the words "holder of a pipeline authorisation", and substituting the words "owner of a pipeline".

By omitting from section 21 (3) the word "holder", and substituting the word "owner".

By omitting from section 21 (3) the word "authorisation", and substituting the words "pipeline authorisation in force in respect of the pipeline".

By repealing section 21 (5), and substituting the following subsection:

"(5) If any single pipeline is owned by 2 or more persons, each owner shall be jointly and severally liable with the other owner or owners to pay the levy under this section in respect of each pipeline authorisation."

By inserting, after section 25, the following section:

"25A. Administration charge—Where an officer of the Department responsible for the administration of this Act is required to perform services in relation to any mine (as defined in the Mining Act 1971), and the owner of the mine is not liable to pay a levy in respect of that mine under this Act, the Secretary may charge such owner a fee for the performance of those services at the rate of $75 per hour; and the person so charged shall be liable to pay to the Secretary the fee charged."

By repealing section 30, and substituting the following section:

"30. Payment into Departmental Bank Account—All money received by the Secretary under this Part of this Act..."
<table>
<thead>
<tr>
<th>Enactment</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>1989, No. 140—The Ministry of Energy (Abolition) Act 1989—continued</td>
<td>shall be paid into the Departmental Bank Account of the responsible department of State.”</td>
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<td></td>
<td>By omitting so much of the First Schedule as relates to sections 4, 4A, and 4B of the Atomic Energy Act 1945.</td>
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<td></td>
<td>By omitting so much of the First Schedule as relates to section 8 of the Geothermal Energy Act 1953.</td>
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<td></td>
<td>By omitting so much of the First Schedule as relates to the Iron and Steel Industry Act 1959.</td>
</tr>
<tr>
<td>1990, No. 31—The Conservation Law Reform Act 1990</td>
<td>By omitting from section 22 (6) the words “water right granted or otherwise authorised pursuant to the Water and Soil Conservation Act 1967 or any other Act, and for this purpose it shall be a sufficient defence to produce a certificate to that effect from the Regional Water Board in the area of which the right was purported to be granted or otherwise authorised”, and substituting the words “discharge permit granted under the Resource Management Act 1991 or was a permitted activity in the relevant regional plan under that Act, and for this purpose it shall be a sufficient defence to produce a certificate to that effect from the regional council in the area of which the permit was purported to be granted or activity otherwise permitted”.</td>
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<td></td>
<td>By omitting from section 122 (1) the words “Part XX of the Local Government Act 1974 (as inserted by section 2 of the Local Government Amendment Act 1978)”, and substituting the words “section 11 and Part X of the Resource Management Act 1991”.</td>
</tr>
<tr>
<td></td>
<td>By omitting from section 122 (2) the words “or development”.</td>
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</tbody>
</table>
EIGHTH SCHEDULE—continued
ENACTMENTS AMENDED—continued
PART I—continued

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Amendment</th>
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</thead>
<tbody>
<tr>
<td>1990, No. 52—The Irrigation Schemes Act 1990</td>
<td>By inserting in section 6 (2), before the words “Any such mining privilege”, the words “Except as otherwise provided in section 413 (3) of the Resource Management Act 1991,”.</td>
</tr>
<tr>
<td></td>
<td>By inserting in section 7 (3), before the words “A right”, the words “Except as otherwise provided in section 386 (2) or section 386 (3) of the Resource Management Act 1991,”.</td>
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<td></td>
<td>By repealing section 12, and substituting the following section:</td>
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<td></td>
<td>“12. Section 11 and Part X of Resource Management Act 1991 and Part XXI of Local Government Act 1974 not to apply—Section 11 and Part X of the Resource Management Act 1991 and Part XXI of the Local Government Act 1974 shall not apply to or in respect of the transfer of any land or interest in land pursuant to this Part of this Act nor to any subdivision required in respect of any such transfer.”</td>
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<td>By repealing section 13, and substituting the following section:</td>
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<td></td>
<td>“13. Activity permitted as of right—For the purposes of section 375 (1) (a) (iii) of the Resource Management Act 1991 and for the avoidance of doubt, where any irrigation scheme is sold or otherwise disposed of under this Part of this Act, any use for irrigation purposes of the land upon which the irrigation scheme is situated shall be deemed to be a permitted activity within the meaning of that Act, and section 375 of that Act shall apply accordingly.”</td>
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<tr>
<td>Enactment</td>
<td>Amendment</td>
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<tr>
<td>1990, No 52—The Irrigation Schemes Act 1990—continued</td>
<td>By inserting in section 15 (1), after the words &quot;applied thereto&quot;, the words &quot;and section 386 of the Resource Management Act 1991 shall apply accordingly&quot;.</td>
</tr>
<tr>
<td>1990, No. 105—The New Zealand Railways Corporation Restructuring Act 1990</td>
<td>By inserting, after section 12 (2), the following subsection: &quot;(3) Section 11 (1) of the Resource Management Act 1991 does not apply in respect of the granting of a lease to a railway operator under subsection (1) of this section unless the land in respect of which the lease is granted is used, or is intended to be used, solely or principally for car parking, or for administration or residential purposes, or for any purpose that is not connected with the operation of a railway.&quot;</td>
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### EIGHTH SCHEDULE—continued

#### PART II

#### REGULATIONS AMENDED

<table>
<thead>
<tr>
<th>Title</th>
<th>Amendment</th>
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</thead>
<tbody>
<tr>
<td>The Geothermal Energy Regulations 1961 (S.R. 1961/126)</td>
<td>By revoking subclauses (1) and (2) of regulation 4.</td>
</tr>
<tr>
<td></td>
<td>By revoking regulations 5 to 8.</td>
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<td></td>
<td>By revoking regulations 14, 15, 17, 18, 20, 22, and 23.</td>
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<tr>
<td></td>
<td>By revoking the Schedule.</td>
</tr>
</tbody>
</table>
SPECIAL ACTS UNDER WHICH LOCAL AUTHORITIES AND OTHER PUBLIC BODIES EXERCISE FUNCTIONS, POWERS, AND DUTIES

1875, No. 5 (P)—The Dunedin Waterworks Extension Act 1875.
1891, No. 19 (L)—The Wanganui River Trust Act 1891.
1900, No. 21 (L)—The Hawera Borough Drainage Empowering Act 1900.
1900, No. 25 (L)—The Dunedin District Drainage and Sewerage Act 1900.
1901, No. 8 (L)—The Dunedin Waterworks Extension Act 1901.
1905, No. 59 —The Ellesmere Lands Drainage Act 1905.
1905, No. 4 (L)—The Eltham Borough Drainage and Water Supply Empowering Act 1905.
1905, No. 37 (L)—The Oxford Road District Act 1905.
1913, No. 10 (L)—The Springs County Council Reclamation and Empowering Act 1913.
1914, No. 13 (L)—The Eltham Drainage Board Act 1914.
1920, No. 20 (L)—The Taieri River Improvement Act 1920.
1921, No. 4 (L)—The Judea Land Drainage Board Empowering Act 1921.
1922, No. 4 (L)—The Wairau River District Loans Act 1922.
1922, No. 17 (L)—The Hutt River Improvement and Reclamation Act 1922.
1922, No. 22 (L)—The Waimakariri River Improvement Act 1922.
1923, No. 5 (L)—The Manawatu-Oroua River District Act 1923.
1925, No. 41 —The Ashley River Improvement Act 1925.
1926, No. 19 (L)—The Kaituna River District Act 1926.
1927, No. 13 (L)—The Makerua Drainage Board Loan Empowering Act 1927.
1928, No. 16 (L)—The Tumu-Kaituna Drainage Board Empowering Act 1928.
1929, No. 23 —The Taupiri Drainage and River District Act 1929.
1930, No. 7 (L)—The Dunedin Waterworks Extension Act 1930.
1931, No. 4 (L)—The South Wairarapa River Board Empowering Act 1931.
1934, No. 5 (L)—The Te Ore Ore River Board Rating Act 1934.
1934, No. 8 (L)—The Wairau River Board Empowering Act 1934.
1936, No. 1 (L)—The Taupiri Drainage and River Board Empowering Act 1936.
1938, No. 17 (L)—The Lower Clutha River Improvement Act 1938.
1944, No. 3 (L)—The North Shore Boroughs (Auckland) Water Conservation Act 1944.
1944, No. 8 (L)—The Auckland Metropolitan Drainage Act 1944.
1945, No. 6 (L)—The Dunedin Waterworks (Silverstream Supply) Extension Act 1945.
1946, No. 10 (L)—The South Canterbury Catchment Board Act 1946.
NINTH SCHEDULE—continued

SPECIAL ACTS UNDER WHICH LOCAL AUTHORITIES AND OTHER PUBLIC BODIES EXERCISE FUNCTIONS, POWERS, AND DUTIES—continued

1951, No. 16 (L)—The Dunedin Waterworks (Taieri River Supply) Extension Act 1951.
1951, No. 21 (L)—The Christchurch District Drainage Act 1951.
1953, No. 5 (L)—The Kaikoura River Board Validating Act 1953.
1956, No. 34 —The Rangitaiki Land Drainage Act 1956.
1963, No. 16 (L)—The Summit Road (Canterbury) Protection Act 1963.

This Act is administered in the Ministry for the Environment.