Resource Management (Freshwater and Other Matters) Amendment Act 2024

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Date of assent	24 October 2024
Commencement	see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Resource Management (Freshwater and Other Matters) Amendment Act 2024.

2 Commencement

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

3 Principal Act

This Act amends the Resource Management Act 1991.

Part 1
Amendments to Resource Management Act 1991

4 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

National Policy Statement for Freshwater Management 2020 or **NPSFM 2020** means the National Policy Statement for Freshwater Management 2020 that was approved by the Governor-General under section 52(2) on 3 August 2020 and that came into effect on 3 September 2020

National Policy Statement for Indigenous Biodiversity 2023 or **NPSIB 2023** means the National Policy Statement for Indigenous Biodiversity 2023 that was approved by the Governor-General under section 52(2) on 31 May 2023 and that came into effect on 4 August 2023

5 Section 32 amended (Requirements for preparing and publishing evaluation reports)

(1) In section 32(3), replace "standard, statement, national planning standard, regulation," with "regional policy statement,".

(2) Replace section 32(5) with:

(5) The person who must have particular regard to the evaluation report must make the report available for public inspection at the same time as the proposal is notified.

(3) In section 32(6), definition of **proposal**, replace "standard, statement, national policy statement, regulation," with "regional policy statement,".

6 Section 32AA amended (Requirements for undertaking and publishing further evaluations)

(1) Replace section 32AA(1)(d)(i) with:

(i) be published in an evaluation report that is made available for public inspection at the same time as the decision on the proposal is notified; or

(2) In section 32AA(3), definition of **proposal**, replace "statement, national planning standard," with "regional policy statement,".

7 Section 32A amended (Failure to carry out evaluation)

(1) In section 32A(1), delete "49,".

(2) In section 32A(3), replace "statement, national planning standard" with "regional policy statement".

8 Section 42 amended (Protection of sensitive information)

In section 42(6)(b)(i), replace "section 47 or 149J" with "section 149J".

9 Section 44 amended (Restriction on power to make national environmental standards)

(1) In section 44(1)(a), replace "46A(3)" with "46A(1)".

(2) Replace section 44(1)(b) to (d) with:

(b) publicly notify the report and recommendations made under section 46A(1)(c).

(3) In section 44(2)(a), replace "section 46A(4)(c) or 51, as the case requires" with "section 46A(1)(c)".

(4) Replace section 44(3) with:

(3) The Minister need not follow the process referred to in section 46A if the Minister is recommending the making of an amendment for 1 of the following reasons:

(a) to align with a New Zealand Standard within the meaning of section 4 of the Standards and Accreditation Act 2015:

(b) to implement New Zealand's obligations under any international convention, protocol, or agreement to which New Zealand is a party:

(c) to give effect to provisions in an emissions reduction plan or national adaptation plan:

(d) to extend the time frame for implementation of any part of a national environmental standard:

(e) to remove provisions in a national environmental standard that are no longer required as a consequence of changes to legislation:

(f) to make changes that are no more than minor in effect, to correct errors, or to make similar technical alterations.

(4) The Minister must,—

(a) before recommending an amendment for a reason specified in subsection (3), consider whether it is more appropriate to follow the process referred to in section 46A to make the amendment; and

(b) as soon as practicable after making the amendment under subsection (3), publish their reasons for the amendment on an internet site to which the public have access.

(5) An amendment under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • give public notice of it (see section 2AB) • publish it in whatever form the maker thinks appropriate • publish the Order in Council made under section 52(2) in the Gazette • comply with sections 52(3) and 54(1)	LA19 s 73, 74(1)(a), Schedule 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

10 Section 46A replaced (Single process for preparing national directions)

Replace section 46A with:

46A Process for preparing national environmental standards and national policy statements

(1) If the Minister proposes to issue a national environmental standard or national policy statement, the Minister must establish and follow a process that includes the following steps:

(a) the public and iwi authorities must be given notice of—

(i) the proposed national environmental standard or national policy statement (the **proposal**); and

(ii) why the Minister considers that the proposal is consistent with the purpose of this Act; and

(b) those notified must, subject to subsection (2), be given what the Minister considers to be adequate time and opportunity to make a submission on the subject matter of the proposal; and

(c) a report and recommendations must be made to the Minister on the submissions and the subject matter of the proposal.

(2) The time given for submissions under subsection (1)(b) must not be less than 20 working days.

(3) A person preparing a report and recommendations required by subsection (1)(c) must consider the matters in Part 2.

(4) In preparing a national environmental standard or national policy statement, the Minister may, at any time, consult on a draft of that document.

(5) If the Minister decides, after consulting as required by subsection (1), to recommend that regulations on the same subject matter as that consulted on be made under any of sections 360 to 360C, the consultation under subsection (1) satisfies the requirement to consult the public and iwi authorities in relation to those regulations.

11 Section 46B amended (Incorporation of material by reference in national direction)

(1) In the heading to section 46B, replace "**national direction**" with "**national environmental standard or national policy statement**".

(2) In section 46B, replace "national direction" with "national environmental standard or national policy statement".

12 Sections 47 to 51 repealed

Repeal sections 47 to 51.

13 Section 51A amended (Withdrawal of proposed national policy statement)

Repeal section 51A(3).

14 Section 52 amended (Consideration of recommendations and approval or withdrawal of statement)

(1) In section 52(1), delete "whether made in accordance with section 46A(3)(a) or (b),".

(2) Replace section 52(1)(a) with:

(a) first, must consider a report and any recommendations made under section 46A(1)(c); and

(3) Repeal section 52(1)(c).

(4) In section 52(3)(b), after "report", insert "made under section 46A(1)(c)".

15 Section 53 amended (Changes to or review or revocation of national policy statements)

(1) Replace section 53(1) with:

(1) The Minister may review, change, or revoke a national policy statement after following the process referred to in section 46A.

(2) In section 53(2), replace "without using a process referred to in subsection (1)" with "without following the process referred to in section 46A".

(3) Replace section 53(2)(a) with:

(a) amend a national policy statement if the Minister is recommending the amendment for a reason specified in section 44(3), in which case,—

(i) section 44(3) applies as if a reference to a national environmental standard were a reference to a national policy statement; and

(ii) the Minister must comply with section 44(4); or

16 Section 57 amended (Preparation of New Zealand coastal policy statements)

In section 57(1), replace "using one of the processes referred to in section 46A(3), as if references in sections 46 to 52" with "after following the process referred to in section 46A as if references in that section".

17 Section 58D amended (Preparation of national planning standards)

Repeal section 58D(3)(b).

18 Section 58E amended (Approval of national planning standard)

Replace regulation 58E(1) with:

(1) Before approving a national planning standard, the Minister must consider the report and recommendations made under section 58D(3)(d)(ii).

19 Section 58H amended (Changing, replacing, or revoking national planning standards)

Replace section 58H(2) with:

(2) The Minister need not follow the process set out in sections 58D and 58E if the Minister is recommending a change to a national planning standard for a reason specified in section 44(3), in which case,—

(a) section 44(3) applies as if a reference to section 46A were a reference to sections 58D and 58E and a reference to a national environmental standard were a reference to a national planning standard; and

(b) the Minister must comply with section 44(4) (which applies as if a reference to section 46A were a reference to sections 58D and 58E and a reference to an amendment were a reference to a change).

20 New section 78 inserted (Time-limited modifications to NPSIB 2023)

After section 77T, insert:

Certain provisions of NPSIB 2023 suspended for 3-year period

78 Time-limited modifications to NPSIB 2023

(1) In this section,—

3-year period means the period that—

(a) commences on the date on which the Resource Management (Freshwater and Other Matters) Amendment Act 2024 comes into force; and

(b) expires on the date that is 3 years after that date

commencement means the date on which the Resource Management (Freshwater and Other Matters) Amendment Act 2024 comes into force

NPSIB SNA means a significant natural area as defined in clause 1.6 of the NPSIB 2023.

(2) The following provisions of the NPSIB 2023 do not apply during the 3-year period:

(a) clause 2.2, Policy 6 (which requires a consistent approach in identifying significant indigenous vegetation and significant habitats of indigenous fauna as NPSIB SNAs):

(b) clause 3.8(1), (6), and (8) (which requires a territorial authority to conduct assessments to identify areas of significant indigenous vegetation and significant habitats of indigenous fauna that qualify as NPSIB SNAs):

(c) clause 3.9(1) (which requires a territorial authority to notify a plan or plan change to include areas identified as qualifying as NPSIB SNAs):

(d) clause 3.9(3) (which requires that a local authority must, when doing its 10-yearly plan review, assess its district in accordance with clause 3.8(1) and (2) to determine whether changes are needed).

(3) Clause 4.1(1) of the NPSIB 2023 (which requires a local authority to give effect to the NPSIB 2023 as soon as reasonably practicable)—

(a) does not apply during the 3-year period in relation to clause 3.8(5) of the NPSIB 2023 and the provisions of the NPSIB 2023 specified in subsection (2); but

(b) continues to apply in relation to the other provisions of the NPSIB 2023.

(4) This section does not affect—

(a) any function or requirement under other provisions of this Act relating to indigenous biological diversity, areas of significant indigenous vegetation, or areas of significant habitats of indigenous fauna; or

(b) any obligations of local authorities and other decision makers under this Act to give effect to provisions in policy statements and plans relating to indigenous biological diversity.

(5) However, if, during the 3-year period, a new area of significant indigenous vegetation or significant habitat of indigenous fauna is included in a proposed policy statement, proposed plan, or change,—

(a) the new area is not an NPSIB SNA regardless of how it is described in that document; and

(b) the NPSIB 2023 does not apply to the new area.

(6) This section does not affect—

(a) any NPSIB SNA included in a policy statement, proposed policy statement, plan, proposed plan, or change before commencement (*see also* clause 40 of Schedule 12); or

(b) any of the following matters that commenced but were not completed before commencement (*see also* clause 40 of Schedule 12):

(i) a proposed policy statement, proposed plan, or change (a **planning process**) that has been notified under Schedule 1; and

(ii) the identification, modification, or removal of an area to give effect to decisions on that planning process.

(7) This section is repealed on the close of the date of expiry of the 3-year period.

21 Section 80A amended (Freshwater planning process)

(1) In section 80A(4)(b), after "2027", insert "and comply with subsection (4A)".

(2) After section 80A(4), insert:

(4A) If the purpose of the freshwater planning instrument is to give effect to the National Policy Statement for Freshwater Management 2020, a regional council must not publicly notify the freshwater planning instrument earlier than the sooner of the following dates:

(a) the date on which a new national policy statement for freshwater management (replacing the National Policy Statement for Freshwater Management 2020) is published under section 54:

(b) 31 December 2025.

(4B) However, *see* clause 42 of Schedule 12, which allows for an exemption from subsection (4A).

22 Section 92 amended (Further information, or agreement, may be requested)

After section 92(2), insert:

(2A) However, a consent authority must not request further information nor commission a report on clause 1.3(5) or 2.1 of the NPSFM 2020 (which relates to the hierarchy of obligations in the NPSFM 2020).

23 Section 104 amended (Consideration of applications)

After section 104(2E), insert:

(2F) When considering an application and any submissions received, a consent authority must not have regard to clause 1.3(5) or 2.1 of the NPSFM 2020 (which relates to the hierarchy of obligations in the NPSFM 2020).

(2G) Subsection (2F) applies despite subsection (1)(b)(iii) and any other provision of this Act.

24 Section 107 amended (Restriction on grant of certain discharge permits)

(1) In section 107(1), after "subsection (2)", insert "or (2A)".

(2) After section 107(2), insert:

(2A) A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or 15A that may allow the effects described in subsection (1)(g) if the consent authority—

(a) is satisfied that, at the time of granting, there are already effects described in subsection (1)(g) in the receiving waters; and

(b) imposes conditions on the permit; and

(c) is satisfied that those conditions will contribute to a reduction of the effects described in subsection (1)(g) over the duration of the permit.

25 Section 217C amended (Application of this Part)

In section 217C(1)(b), after "Council", insert "(but *see* section 217CA, which relates to when this Part ceases to apply)".

26 New section 217CA inserted (When this Part ceases to apply)

After section 217C, insert:

217CA When this Part ceases to apply

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, amend an Order in Council under section 217C to—

(a) cease the application of this Part to a district, region, or part of New Zealand specified in that Order in Council; and

(b) provide for the date on which this Part ceases to apply to the specified district, region, or part of New Zealand.

(2) Before making a recommendation under subsection (1), the Minister must—

(a) be satisfied that regulations are no longer necessary to achieve the purpose of this Part in the specified district, region, or part of New Zealand; and

(b) consult the Minister of Agriculture.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

27 Section 360B amended (Conditions to be satisfied before regulations made under section 360A)

Repeal section 360B(2)(d).

28 Schedule 4 amended

In Schedule 4, after clause 2(2), insert:

(2A) An assessment required by subclauses (1)(g) and (2) must not include an assessment of the activity against clause 1.3(5) or 2.1 of the NPSFM 2020 (which relates to the hierarchy of obligations in the NPSFM 2020).

(2B) Subclause (2A) applies despite subclauses (1)(g) and (2) and any other provision of this Act.

29 Schedule 12 amended

In Schedule 12,—

(a) insert the Part set out in Schedule 1 of this Act as the last Part; and

(b) make all necessary consequential amendments.

Part 2
Other matters

30 Amendments to secondary legislation made under Resource Management Act 1991

Amend the secondary legislation specified in Schedule 2 as set out in that schedule.

31 Amendment to Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

Section 32 amends the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

32 Section 31 amended (Effect on other resource management documents)

Replace section 31(3) with:

(3) A person who, under a process established under section 46A of the Resource Management Act 1991, prepares a report and recommendations for a proposed national policy statement that directly affects ngā rohe moana must consider the environmental covenant.

Schedule 1
New Part 7 inserted into Schedule 12

s 29

Part 7
Provisions relating to Resource Management (Freshwater and Other Matters) Amendment Act 2024

39 Interpretation

In this Part, unless the context otherwise requires,—

amendment Act means the Resource Management (Freshwater and Other Matters) Amendment Act 2024

commencement means the date on which the amendment Act comes into force

specified provisions relating to the NPSFM 2020 means—

(a) section 92(2A); and

(b) section 104(2F) and (2G); and

(c) clause 2(2A) and (2B) of Schedule 4.

40 Effect of certain amendments on significant natural areas before commencement

(1) The NPSIB 2023, as it was immediately before commencement but subject to the specified amendments, continues to apply in respect of an NPSIB SNA described in section 78(6)(a) or any matter described in section 78(6)(b).

(2) In this clause, **specified amendments** means the amendments made by section 30 and Schedule 2 of the amendment Act to—

(a) clause 3.8(5) of the NPSIB 2023:

(b) clause 3.11(1)(a)(ii) and (iv) of the NPSIB 2023:

(c) clause 4.2 of the NPSIB 2023.

41 Retrospective application of clause 42 and amendments to section 80A

Clause 42 of this schedule and the amendments to section 80A made by section 21 of the amendment Act apply on and from 22 October 2024 as if they were in force on and from that date.

42 Exemption from requirement to notify freshwater planning instrument no earlier than specified date

(1) The Minister may, on written application by a regional council, exempt the council from the requirement to comply with section 80A(4A) in relation to all or part of the council's draft freshwater planning instrument if the Minister is satisfied that the instrument or any part of the instrument—

(a) is required to—

(i) progress flood protection or flood remediation work; or

(ii) prevent or mitigate risks from natural hazards; or

(iii) progress housing development; or

(b) relates to the provision, operation, or maintenance of—

(i) regionally or nationally significant infrastructure, including large hydroelectric power schemes; or

(ii) municipal drinking water, stormwater, or wastewater; or

(c) is required to give effect to Treaty settlement obligations; or

(d) is required, during the relevant period, to address any provisions in a plan or policy statement that—

(i) have unintended consequences; or

(ii) are unworkable or lead to inefficient outcomes; or

(e) is required because of changes in a national direction or to this Act that occur during the relevant period; or

(f) is required for any other reason the Minister considers appropriate.

(2) When applying for an exemption, a regional council must—

(a) include an up-to-date copy of the draft freshwater planning instrument that it intends to publicly notify; and

(b) if applicable, identify the parts of the draft freshwater planning instrument for which the exemption is sought.

(3) If the Minister decides to grant an exemption, they must give written notice of the decision to the regional council and, if applicable, specify the relevant parts of the draft freshwater planning instrument that are exempted.

(4) If the Minister decides not to grant an exemption, they must give written notice to the regional council of the decision and include reasons.

(5) In this clause,—

national direction has the meaning given in section 80B(3)

relevant period means the period starting on 22 October 2024 and ending on the sooner of the following dates:

(a) the date on which a new national policy statement for freshwater management (replacing the National Policy Statement for Freshwater Management 2020) is published under section 54:

(b) 31 December 2025

Treaty settlement obligations has the meaning given in section 9 of the Urban Development Act 2020.

43 Specified provisions relating to NPSFM 2020

The specified provisions relating to the NPSFM 2020 apply to an application for a resource consent that is lodged with a consent authority—

(a) on or after commencement; or

(b) before commencement if the consent authority has not, before commencement, served notice of its decision on the application.

44 Repeal of specified provisions relating to NPSFM 2020 by Order in Council

(1) The Governor-General in Council may, on the recommendation of the Minister, repeal the specified provisions relating to the NPSFM 2020.

(2) The Minister must make a recommendation under this clause when recommending the approval of a new national policy statement under section 52 to replace the NPSFM 2020.

(3) An Order in Council under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

45 Effect of certain amendments on applications for resource consents

(1) The amendments affecting coal mining apply to an application for a resource consent that is lodged with a consent authority—

(a) on or after commencement; or

(b) before commencement if the consent authority has not, before commencement, served notice of its decision on the application.

(2) In this clause, **amendments affecting coal mining** means the amendments made by section 30 and Schedule 2 of the amendment Act to—

(a) regulation 45D(7) and (8) of the Resource Management (National Environment Standards for Freshwater) Regulations 2020:

(b) clause 3.22(1)(e)(i) of the NPSFM 2020:

(c) clause 3.11(1)(a)(ii) and (iv) of the NPSIB 2023.

46 Effect of amendments to section 107 on applications for discharge or coastal permits

The amendments made to section 107 by section 24 of the amendment Act apply to an application for a discharge permit or coastal permit that is lodged with a consent authority—

(a) on or after commencement; or

(b) before commencement if—

(i) the consent authority has not, before commencement, served notice of its decision on the application; or

(ii) the consent authority's decision on the application was the subject of judicial review proceedings and was referred back to the consent authority for reconsideration, as long as the consent authority has not, before commencement, served notice of that decision.

47 Part 9A ceases to apply to specified districts, regions, and parts of New Zealand

(1) Part 9A ceases, on commencement, to apply to any district, region, or part of New Zealand specified in the Resource Management (Application of Part 9A—Freshwater Farm Plans) Order 2023.

(2) Any freshwater farm plans that, before commencement, have been certified or audited under Part 9A cease to have effect.

Schedule 2
Amendments to secondary legislation made under Resource Management Act 1991

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Resource Management (Application of Part 9A—Freshwater Farm Plans) Order 2023 (SL 2023/114)

Revoke the Resource Management (Application of Part 9A—Freshwater Farm Plans) Order 2023.

Resource Management (National Environment Standards for Freshwater) Regulations 2020 (LI 2020/174)

In Part 2, replace subpart 3 with:

Subpart 3—Intensive winter grazing

26 Minimum setback for land used for intensive winter grazing

An area of land that is used for intensive winter grazing on a farm must be located at least 5 m away from the bed of any river, lake, wetland, or drain (regardless of whether there is any water in it at the time).

27 Critical source area

The following requirements apply in relation to any critical source area that is within, or adjacent to, any area of land that is used for intensive winter grazing:

(a) the critical source area must not be grazed; and

(b) vegetation must be maintained as ground cover over all of the critical source area; and

(c) maintaining that vegetation must not include cultivation or harvesting of annual forage crops.

Revoke regulation 45D(7) and (8).

Resource Management (Stock Exclusion) Regulations 2020 (LI 2020/175)

Revoke regulation 3(4) and (7).

In regulation 3A, replace “14 to 18” with “16 and 17”.

In regulation 4, revoke the definition of **low slope land**.

In regulation 7, replace “12(b), or 14(b)” with “or 12(b)”.

Revoke regulations 14, 15, and 18.

Resource Management (Infringement Offences) Regulations 1999 (SR 1999/359)

In Schedule 1A, table, revoke the items relating to regulations 14(a), 14(b), 15, and 18.

National Policy Statement for Freshwater Management 2020

Replace clause 3.22(1)(e)(i) with:

(i) the activity is necessary for the purpose of the extraction of minerals and ancillary activities; and

National Policy Statement for Indigenous Biodiversity 2023

In clause 3.8(5), replace "four" with "six".

In clause 3.11(1)(a)(ii), delete "; but this subparagraph does not apply to any mineral extraction that is coal mining, and subparagraph (iv) applies instead".

In clause 3.11(1)(a)(iii), replace "New Zealand:" with "New Zealand; and".

Revoke clause 3.11(1)(a)(iv).

In clause 4.2(1), replace "subpart 2 of Part 3 (significant natural areas)" with "clause 3.16 (indigenous biodiversity outside SNAs)".

After clause 4.2(1), insert:

(2) Local authorities must publicly notify any policy statement or plan or changes to these necessary to give effect to subpart 2 of Part 3 (except clause 3.16) by 31 December 2030.

Legislative history

23 May 2024	Introduction (Bill 47–1)
28 May 2024	First reading and referral to Primary Production Committee
30 September 2024	Reported from Primary Production Committee (Bill 47–2)
15 October 2024	Second reading
22 October 2024	Committee of the whole House (Bill 47–3)
23 October 2024	Third reading
24 October 2024	Royal assent

This Act is administered by the Ministry for the Environment.

Wellington, New Zealand:
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