



RESOURCE MANAGEMENT AMENDMENT ACT 2009

Fact Sheet 1: Overview

This is one of a series of fact sheets explaining the amendments to improve the Resource Management Act 1991 (RMA). This fact sheet provides an overview of the other fact sheets in the series, which set out the main changes in more detail.

BACKGROUND

The Resource Management (Simplifying and Streamlining) Amendment Act 2009 represents the single biggest review of the RMA since 1991. The review began in November 2008 and was centred around eight major themes:

- reducing the ability for the RMA to be used for making frivolous, vexatious or anti-competitive objections and appeals
- reducing the cost and time it takes to make decisions on proposals of national significance
- establishing an Environmental Protection Authority (EPA) to process applications for proposals of national significance in a timely and efficient manner
- improving plan development and plan change processes to reduce the time and cost associated with preparing and changing policy statements and plans
- improving the resource consent process to reduce the cost and time faced by applicants while maintaining an appropriate level of public participation
- streamlining the preparation, and improving the effectiveness of, national instruments including national policy statements and national environmental standards
- improving the effectiveness and deterrent effect of enforcement and compliance mechanisms

- increasing the efficiency and workability of RMA decision-making processes.

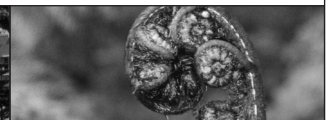
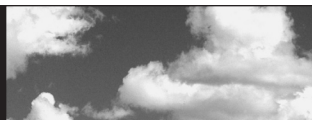
At the same time it was also decided to take advantage of the review process to correct technical inconsistencies, update references to other legislation, and remove redundant provisions from the RMA.

The Bill had its first reading on 19 February 2009. Submissions opened on 20 February 2009 and closed 3 April 2009, by which time 840 submissions had been received. The Bill was reported back to the House of Representatives on 18 August 2009. It was passed into law and commenced on 1 October 2009.

THE FACT SHEETS

This series of fact sheets has been produced to summarise the main changes made by the Resource Management (Simplifying and Streamlining) Amendment Act 2009. The fact sheets cover:

- Trade competition, representation at proceedings and Environment Court costs
- Improving resource consent processes
- Direct referral, independent commissioners and restricted coastal activities
- Improving plan development and plan change processes
- Changes to national instruments
- Proposals of national significance
- Environmental Protection Authority – role, functions and powers
- Changes to enforcement.



Trade Competition, Representation at Proceedings and Environment Court Costs

This fact sheet describes the purpose and content of new Part 11A which places restrictions about the circumstances when trade competitors can make submissions, or bring appeals in the Environment Court.

An overview is also provided of:

- limitations in using other parties during proceedings (surrogates) by trade competitors
- a new declaration and High Court damages regime to disincentivise anti-competitive behaviours by trade competitors
- the reinstatement of security for costs
- limitations on third party representation in proceedings before the Environment Court.

Improving Resource Consent Processes

This fact sheet covers changes to resource application, notification and decision-making processes. The main changes covered in this fact sheet include:

- removal of the presumption that a resource consent must be notified
- the adjustment to the threshold of environmental effects that trigger notification of resource consent applications and who is an affected party, and clarification of when a national environmental standard or plan can specify when a consent application must be notified or not
- limiting the stopping of the consent processing 'clock' during further information request(s) to once before submissions, and once after submissions close (if an application is notified)
- the requirement for a discount policy for consent processing fees when consent applications are processed outside statutory timeframes due to the actions of the council processing them
- new restrictions on the use of RMA provisions that allow councils to extend timeframes when processing resource consents, changes of conditions, or reviews of conditions.

Direct Referral, Independent Commissioners and Restricted Coastal Activities

This fact sheet covers the following matters:

- the new 'direct referral' process by which applicants for notified resource consent applications and notices of requirement can request that the decision on their proposal be made by the Environment Court instead of the council that would have made the decision. The agreement of the council is necessary for this to occur
- applicants and submitters to notified resource consent applications being able to request that a council appoint at least one independent commissioner to hear and decide the application. The additional costs of such a request are to be met by the person(s) who made the request
- the Minister of Conservation's power to make decisions on applications for coastal permits in relation to restricted coastal activities being removed. Regional councils will be responsible for making decisions on coastal permits although the Minister of Conservation will still monitor the effect and implementation of coastal permits and has an ability to appeal decisions on restricted coastal activities to the Environment Court.

Improving Plan Development and Plan Change Processes

This fact sheet explains the changes made to the RMA plan and policy preparation, change and variation processes. The main changes discussed include:

- replacing the need to conduct full plan reviews every 10 years with a requirement that provisions must have been the subject of a review or plan change in the preceding 10 years
- restrictions on who can make further submissions and the shortening of the further submission timeframe to 10 working days
- removal of the ability to seek the withdrawal of entire plans through an appeal

- clarification of the ability of councils to produce combined planning documents that can meet the requirements of a regional policy statement, regional plan, or district plan (or any combination)
- rules in plans having no legal effect until such time as decisions have been made on submissions unless specific circumstances apply (such as the rule protecting natural or historic resources, protecting or providing for an aquaculture management area, or when a Court order has been obtained to allow a rule to have effect earlier).

Changes to National Instruments

This fact sheet provides a summary of the main changes to RMA provisions relating to the preparation and effect of national environmental standards (NES) and national policy statements (NPS). These changes include:

- new requirements for councils to remove provisions from plans that conflict with or duplicate specific provisions in a NES without using Schedule 1 processes if the NES so directs
- councils being given an explicit duty to monitor and enforce a NES, and an ability to issue certificates of compliance when a proposal complies with a NES
- amended requirements for councils to, without formality, amend policy statements and plans to include specific objectives and policies from a NPS or give effect to a NPS if that NPS so directs
- new powers for the Minister for the Environment to cancel an NPS that is not yet in force, suspend the NPS development process, or supply additional information to a board of inquiry which that board must then consider.

Proposals of National Significance

This fact sheet explains the origin and content of new Part 6AA which seeks to improve the provisions for making decisions on proposals of national significance through:

- the ability for proposals of national significance to be directed to the Environmental Protection Authority for processing

- the extension of the scope of nationally significant proposals to include nationally significant infrastructure projects and plan changes and variations
- clarifying the role and powers of boards of inquiry
- requiring boards of inquiry to notify decisions on proposals of national significance within nine months
- limiting appeals on proposals of national significance to High Court decisions only where leave to appeal is provided from the Supreme Court.

Environmental Protection Authority – Role, Functions and Powers

This fact sheet explains the setting up and functions and powers of the new Environmental Protection Authority (EPA), including:

- the transitional nature and position of the EPA as a statutory office within the Ministry for the Environment
- the role, functions and powers of the EPA being exercised by the Secretary for the Environment for the time being
- the role of the EPA in processing applications for proposals of national significance, including providing timely administration and support services to boards of inquiry and the Environment Court who consider and make decisions on proposals of national significance
- new sections in the RMA to enable different directions for proposals of national significance, including the ability to lodge an application for a resource consent (or change or cancel consent conditions), plan change, preparation of a regional plan or notice of requirement directly with the EPA.



Changes to Enforcement

This fact sheet covers changes made to the compliance and enforcement provisions of the RMA including:

- increases in maximum fine levels and the differentiation of fines according to whether a person is a natural person or not
- a new ability for councils to take enforcement action against the Crown
- the ability for enforcement officers to require date of birth information
- the ability to serve documents by email
- a new ability for the Environment Court to order, when a prosecution is successful, the review of a resource consent, and for a council to cancel that consent where there will be ongoing adverse effects.

OTHER INITIATIVES TO IMPROVE UNDERSTANDING OF THE RMA

- Quality Planning website (www.qualityplanning.org.nz)
- The Everyday Guide to the RMA series prepared by the Ministry for the Environment (www.rma.govt.nz).