Minor and technical amendments

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This is one of a series of fact sheets developed to provide an overview of the Resource Management Amendment Act 2013, the Local Government (Auckland Transitional Provisions) Amendment Act 2013, and the Local Government Official Information and Meetings Amendment Act 2013.

This fact sheet outlines minor and technical amendments, including changes to blanket tree protection rules under the Resource Management Act 1991 (RMA), central government's ability to require local authorities to monitor environmental data, and improvements to the RMA's emergency provisions.

When these provisions take effect

The minor and technical amendments come into effect at different times. An overview of the timing of the amendments is:

- subject to regulations – environmental monitoring data changes
- the day after Royal Assent but with a 24 month period to update provisions – district rules relating to trees.
- the day after Royal Assent – remaining provisions.

More details are set out in the relevant sections below.

Why were changes needed?

The amendments address concerns about:

- inconsistencies between existing practice, policy intent and the legislation
- the practicality of some Resource Management Act (RMA) provisions
- the lack of nationally consistent methodologies or standards for collecting environmental monitoring data, resulting in:
  - lack of comparability in statistics and reporting between regions
  - limited ability for central government to report comprehensively on the state of the environment at a national level
- the inability of central government to require local authorities to collect specific environmental reporting information or specify how that information should be collected.

How has the legislation been amended?

District rules about trees

A district rule under the RMA can only restrict the felling, trimming, damaging or removal of trees on "urban environment allotments" if the trees and the allotments are specifically identified by street address, legal description, or both, in a schedule to the district plan.

An "urban environment allotment" is defined as having an area of 4000 m^2 or less; is connected to reticulated sewerage and water supply services; has a building used for industrial, commercial or dwelling purposes; and is not a reserve or subject to a conservation management plan or strategy under the Conservation Act 1987 or Reserves Act 1977.

Trees can be identified in a schedule as a group on two or more adjacent urban environment allotments, if the trees together form a "cluster, line or grove". If multiple trees are identified in a schedule on a single urban environment allotment, they do not need to form a "cluster, line or grove".

The amended provision applies from Royal Assent of the Act, but councils will have a 24-month period to update rules, at which point any remaining non-complying rules will be revoked. Any new or amended rule to protect trees in accordance with this provision will take effect from the date the inconsistent rule is revoked (if it has not already), provided it has been notified in a proposed plan change before then.

Environmental monitoring data changes

Section 35(2)(a) of the RMA allows central government to be more prescriptive about the information local authorities need to collect and monitor about the state of the environment. Regulatory powers under section 360 of the RMA will enable the Minister for the Environment to direct local authorities to monitor the environment according to specified indicators, standards or methods and to provide information to the Minister.

Information on iwi and hapū that is provided under section 35A has to be provided in accordance with regulations (which can be made at any time) made under section 360 of the RMA.

Extension of emergency provisions

The emergency provisions in section 330(1) of the RMA are extended to apply to all "lifeline utilities". A definition of lifeline utility is inserted into the RMA, and is based on the Civil Defence Emergency Management Act 2002.

Process for proposals of national significance

A number of changes are made to the RMA and the Local Government Official Information and Meetings Act 1987 (LGOIMA) to help a board of inquiry make decisions on proposals of national significance. Many of these clarify existing practice. RMA examples include:

- section 39 clarifies that cross examination may be undertaken by a board of inquiry
- section 42A clarifies that a board of inquiry may commission the equivalent of a section 42A report
- sections 142, 146 and 147 clarify that the Minister cannot direct a regional plan or request for a plan change to the Environment Court if either of these things has not yet been notified
- section 149L clarifies that a board of inquiry can direct conferencing of the parties or experts.

Section 142 of the RMA requires either the local authority or an applicant who is requesting the Minister "call in" a matter for decision by a board of inquiry or the Environment Court, to let the other party know they have made a call-in request.

Section 149R of the RMA excludes the Christmas period – from 20 December to 10 January – from a board of inquiry's nine-month decision-making timeframe. Removing this period from the board of inquiry's nine-month timeframe is consistent with the exclusion of these dates from timeframes that apply to local authorities.

Section 149J of the RMA provides for a board of inquiry to remain in existence until it has fulfilled any role required of it under the nationally significant proposals process. This may include any role it may have in relation to appeals to the High Court.

Section 45 of LGOIMA exempts boards of inquiry (deciding on proposals of national significance) and special tribunals (considering water conservation orders) from the meeting requirements of LGOIMA in some circumstances. The requirement for meetings to be publicly notified and held in public only apply when boards of inquiry or special tribunals are holding a hearing. Administrative meetings are not included.

Environment Court procedures

Section 269 of the RMA requires the Environment Court to manage its proceedings in a way which promotes timeliness and cost effectiveness. Specific timeframes are a matter for the Court to determine.

Section 281B allows 10 working days for a person to request a reconsideration of the Court registrar's decision to waive the payment of fees. The increased timeframe – up from five working days – gives a person who has sought a waiver more time to consider the registrar's decision and apply for a re-consideration by an Environment Court Judge, if necessary.

Section 274 requires a party who has joined proceedings under section 274 to send a copy of the notice it served on the Court to all other parties within five working days (after the deadline for giving notice to the Environment Court).

A person against whom an enforcement order has been sought has a right to be heard by the Environment Court, but only if he or she notifies the registrar within 15 working days of being notified of the application.

Ability to correct minor errors

Section 53 of the RMA allows the Minister for the Environment to make amendments of minor effect or correct minor errors in a national policy statement. This ensures consistency with other provisions in the RMA giving similar powers for national environmental standards and resource consent decisions.

Section 133A of the RMA allows local authorities 20 working days (up from 15 working days) to correct minor errors in a resource consent decision.

Section 357 objection rights

Section 357C of the RMA has been amended so as to not require a hearing on an objection if the objection has been resolved.

Marine and Coastal Area Act

Amendments have been made to the RMA to cross-reference other legislative requirements under the Marine and Coastal Area Act to consider customary marine title groups in certain situations.

Fact sheets in this series

Find out more

Contact the Ministry for the Environment by emailing info@mfe.govt.nz or visit:

www.mfe.govt.nz

www.qualityplanning.org.nz.

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