



# Enforcement Powers under the RMA and Offence Provisions under the Conservation Act

## Changes introduced by the Resource Management (Consenting and Other System Changes) Amendment Act 2025

These changes, which passed into law on 20 August 2025, belong to a wider programme of resource management reform. Visit the Ministry for the Environment's [webpage about the new Amendment Act](#) for more information.

### Context

The Department of Conservation has identified two technical issues within resource management legislation.

- There is a defence under the Conservation Act 1987 for discharges that affect freshwater fisheries if they are authorised by a Resource Management Act 1991 (RMA) discharge permit or a regional plan, but it is unclear if the same defence applies if the discharges are permitted by a national environmental standard or other secondary legislation under the RMA.
- The Minister of Conservation, when acting as the local authority for the Kermadec and Subantarctic Islands, could only appoint enforcement officers with powers limited to enforcing compliance with resource consents, not other RMA controls.

### Key changes

- Section 10 of the Amendment Act adds a new section 36(3A) to the RMA.
- Section 12 of the Amendment Act amends section 38 of the RMA.
- Sections 73 and 74 of the Amendment Act amend section 39 of the Conservation Act 1987.

To address the above issues, the Resource Management (Consenting and Other System Changes) Amendment Act 2025 (the Amendment Act) contains two minor and technical changes, to:

- clarify that it is a defence against prosecution under the Conservation Act 1987 if the discharge of contaminants on conservation land is authorised under the RMA
- amend the RMA to enable the Minister of Conservation, when acting as the local authority for the Kermadec and Subantarctic Islands (including the coastal marine area of the islands), to

appoint enforcement officers in the same way and with the same enforcement functions and powers as other local authorities.

## **Amending the Conservation Act 1987 introducing a defence to the offence of discharging contaminants affecting freshwater fisheries, if the discharge is authorised by regulations**

Section 39 of the Conservation Act 1987 makes it an offence to discharge a contaminant in a way that “affects any freshwater fishery, fish spawning ground, or food of freshwater fish in any river, stream, lake, or any other water”. There is then a defence where the discharge was authorised by an RMA discharge permit or was a permitted activity rule in a regional plan. However, this defence did not expressly extend to discharges authorised by national environmental standards or regulations.

To address this, the Amendment Act amends section 39(6) of the Conservation Act 1987 to explicitly enable the statutory defence to apply in every instance where the discharge was authorised under the RMA (including by a resource consent, a plan rule, a rule in a national environmental standard or by regulations).

## **Enabling warranted officers to undertake enforcement action in the coastal marine area of specified offshore islands**

Under the RMA, the Minister of Conservation has certain responsibilities, duties and powers of a local authority (both regional council and territorial authority) in respect of the Kermadec Islands and Subantarctic Islands, including the coastal marine area of the islands. In accordance with those responsibilities, the Minister of Conservation developed a regional coastal plan for the Kermadec Islands and Subantarctic Islands, which has been in force since 2017.

Due to a drafting oversight in 2009, the RMA only allowed the Minister of Conservation to appoint enforcement officers with powers limited to enforcing compliance with resource consents. The officers could not enforce compliance with regional coastal plan rules or national environmental standards, or with the RMA generally.

To ensure the Minister of Conservation can authorise enforcement officers to address all enforcement situations at the Kermadec Islands and Subantarctic Islands – not just resource consents – the Minister needs all of the enforcement powers that local authorities have (eg, compliance with permitted activity rules). The Amendment Act enables the Minister of Conservation, when acting as the local authority for the Kermadec and Subantarctic islands (including the coastal marine area of the islands), to appoint enforcement officers in the same way and with the same enforcement functions and powers as any other local authority.

