



# Section 70 Discharge Amendments

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

These changes, which passed into law on 2 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

Before setting a permitted activity rule for the discharge of contaminants into water, section 70 of the Resource Management Act 1991 (RMA) required a council to be satisfied that none of the following effects are likely to arise in the receiving waters:

- the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials
- any conspicuous change in the colour or visual clarity
- any emission of objectionable odour
- the rendering of fresh water unsuitable for consumption by farm animals
- any significant adverse effects on aquatic life.

Recent court decisions<sup>1</sup> have altered how section 70 is implemented, potentially constraining the ability of councils to use permitted activity rules for common discharge activities. Specifically, the case law constrains the ability to give an activity permitted status in a plan, if that activity will give rise to significant adverse effects on aquatic life. This is the case even where overall adverse effects would be reduced by the permitted activity standards.

Section 107 of the RMA is closely related to section 70 – it restricts the ability of councils to grant a resource consent when the same effects as listed in section 70 are likely to arise from a discharge activity. The Resource Management (Freshwater and Other Matters) Amendment Act 2024 amended section 107 to clarify that, where a council is satisfied the conditions of consent will provide a reduction over time in adverse effects on aquatic life, consent can still be granted.

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<sup>1</sup> *Federated Farmers Southland Incorporated v Southland Regional Council* [2024] NZHC 726 and *Environmental Law Initiative v Canterbury Regional Council* [2024] NZHC 612.

# Key changes

Section 15 of the Amendment Act amends section 70 of the RMA.

The changes to section 70 clarify that a council may include permitted activities for discharges to water if the council is satisfied that:

- there are already significant adverse effects on aquatic life in the receiving waters
- the standards required for the permitted activity (in combination with any other provisions in the plan) will contribute to a reduction in these adverse effects over no greater than 10 years commencing on the date that the rule becomes operative.

Councils will be enabled to make these discharge activities permitted but are not required to do so.

The change is limited to where adverse effects are already present in the receiving environment and so require improvement over time. This restriction allows existing activities to continue as permitted activities (but improve over time), without providing a pathway for adverse effects on aquatic life where these are not already occurring.

This change aligns section 70 with the recently amended section 107, which now allows resource consent to be granted where there will be a reduction in adverse effects over time.

This change applies to plans notified before, on or after commencement of the Resource Management (Consenting and Other System Changes) Amendment Act 2025, including any plan notified before commencement that is the subject of an appeal and any ongoing court proceedings.

