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LOCAL WATER DONE WELL

Factsheet: Water service delivery arrangements

This is one of a series of factsheets giving an overview of key aspects of the Local Government (Water Services) Act 2025 and the associated Local Government (Water Services) (Repeals and Amendments) Act 2025.

It updates the *Factsheet: Water service delivery arrangements* shared in December 2024, to reflect changes made through the Parliamentary process.

Together, the Local Government (Water Services) Act 2025 (referred to as **the standalone Act** in this factsheet) and the Local Government (Water Services) (Repeals and Amendments) Act 2025 (referred to as **the Repeals and Amendments Act** in this factsheet) set out the enduring settings for the new water services system. They are the third tranche of legislation in the Government's three-stage process for implementing Local Water Done Well.

This factsheet provides an overview of the provisions in the standalone Act that relate to water service delivery arrangements – focusing particularly on the structural arrangements for providing water services, and associated matters, contained in Part 2. It should be read alongside other Local Water Done Well factsheets.

What does the legislation do?

Responsibility for providing water services and how delivery arrangements can be structured

Under Part 2, each territorial authority is responsible for ensuring water services are provided in its district in accordance with the standalone Act, but has discretion to determine the optimal structure and delivery method for its local circumstances.

A territorial authority must ensure water services are provided in any one or more of the following ways:

- by the territorial authority providing water services itself, directly (in-house);
- a transfer agreement to transfer responsibility for providing water services to a water organisation (established by the territorial authority or in which it is a shareholder);
- a contract with a third party to provide water services on behalf of the territorial authority;
- a joint arrangement with other water services providers (referred to as a “joint water service provider arrangement”);
- by an Auckland water organisation (if applicable); or

- another type of arrangement that is consistent with the standalone Act (including receiving a transfer of responsibility for providing water services from a regional council).

A territorial authority may use different means for providing different water services or different aspects of a water service. For example, responsibility for water supply and wastewater could be transferred to a water organisation, while stormwater is retained in-house.¹

If a territorial authority enters into a contract, joint water service provider arrangement, or other type of arrangement, it:

- continues to be responsible, as the water service provider under this standalone Act, for ensuring the provision of the water services to which the contract or arrangement relates; and
- must ensure the other party performs and exercises all regulatory requirements associated with providing the water services to which the contract or arrangement relates.²

This means, under these circumstances, the territorial authority is still considered to be the “water service provider” and has the powers and obligations that apply to water service providers under the standalone Act. (Further details are provided below on requirements that apply before entering into contracts and joint water service provider arrangements.)

If a territorial authority establishes or is a shareholder in a water organisation, and transfers responsibility for providing water services to that organisation, the water organisation becomes the water service provider for the transferred services.

To transfer responsibilities, a territorial authority must enter into a transfer agreement with the water organisation – and publish this document. The agreement sets out:

- the responsibilities, functions, powers, assets, liabilities, and other matters that are being transferred; and
- any matters that are being retained by the territorial authority.

As specified in Schedule 2 of the standalone Act, the transfer agreement must also set out arrangements to be put in place for charging and revenue collection for the water services that are being transferred, including whether this will be done by the territorial authority or the water organisation. Water organisations are empowered through Part 3 of the standalone Act to charge consumers directly for the water services they provide, if this is the preferred approach.

¹ A water organisation could also be contracted to provide stormwater services, rather than transferring these responsibilities. In this situation, the territorial authority would continue to be the water service provider for the stormwater services, but the water organisation would undertake the contracted activities on its behalf (e.g. operations and maintenance).

² Note that franchises and concession agreements are prohibited under the standalone Act, as they were under the Local Government Act 2002.

Having this agreement ensures there is transparency about where different responsibilities and accountabilities sit, and flexibility for territorial authorities to determine which arrangements will work best for them. There is also flexibility for the arrangements to change over time – for example, additional matters may be transferred over time.

Part 2 of the standalone Act sets out the actions that must be undertaken before entering into a transfer agreement, and the circumstances under which a new agreement is required.

Water service providers

“Water service provider” is a term used throughout the standalone Act and covers territorial authorities and water organisations (with respect to the services that have been transferred to a water organisation). Most of the requirements and obligations in the standalone Act apply to all water service providers, including:

- objectives – including to provide water services in a cost-effective and financially sustainable manner, and meet all applicable regulatory standards and requirements;
- financial principles – including that the provider must:
 - spend the revenue it receives from, and funding it receives for, providing water services on the water services it provides; and
 - ensure that the revenue and funding it applies to providing water services is sufficient to sustain the provider’s long-term investment in its water services while meeting all regulatory requirements;
- obligations to continue to provide water services and retain ownership of water infrastructure;
- the planning and reporting requirements in Part 4 of the standalone Act.

Additional requirements for water organisations and consumer trusts

The standalone Act provides that water organisations must be wholly owned* by:

- one or more local authorities; or
- one or more local authorities and the trustees of one or more consumer trusts; or
- the trustees of one or more consumer trusts.

The following other requirements also apply to water organisations:

- they must be a company (and are therefore also covered by the Companies Act)*;
- they must not do anything other than provide water services in accordance with this Act, or provide services that are related to, or necessary for, providing water services*;
- they must have a board comprised of directors who are appointed on the basis of their competency to perform the role. Boards cannot include people who are elected members of a territorial authority that is a shareholder in the water organisation, employees of a shareholder in the water organisation, or employees of the water organisation.

Territorial authorities may apply for an exemption from the requirements marked * above. Successful applications are given effect through Order in Council.

Exemption applications are made to the Secretary for Local Government, who will advise the Minister of Local Government on whether to recommend an exemption is granted, and any associated terms and conditions. After receiving the Secretary's advice, the Minister must recommend to the Governor-General that the exemption should be granted, or decline the application.

The standalone Act enables one or more territorial authorities to establish a consumer trust to own or co-own a water organisation and sets out the arrangements that apply to trusts and trustees. Details about the consumer trust are set out in a trust deed, approved by the Secretary for Local Government.

Trustees in a consumer trust are directly elected by consumers of the water organisation, in accordance with the principles in the standalone Act. Trustees will represent the interests of consumers and perform the roles and responsibilities of the shareholders in a water organisation under the standalone Act.

Role of regional councils

Part 2 of the standalone Act makes provision for regions in which water services are provided not only by territorial authorities but also by the regional council. For example, this may be relevant in relation to urban stormwater services, such as ownership of detention dams and the management of urban watercourses.

The standalone Act clarifies that a regional council may:

- provide water services itself, directly;
- transfer responsibility for the provision of water services to a territorial authority in the region;
- transfer responsibility for the provision of water services to a water organisation whose service area is in the region, by entering into a transfer agreement with the organisation;
- enter into a contract with a third party to provide water services on behalf of the council;
- enter into a joint water service provider arrangement.

If a regional council provides water services, it is considered a “water service provider” (in relation to those services) and subject to the relevant areas of the standalone Act.

Other roles of water service providers

Subpart 4 of Part 2 includes some responsibilities or powers that apply either to territorial authorities or to all water service providers, which have been moved from the Local Government Act 2002 (LGA02). Under these provisions:

- territorial authorities are responsible for undertaking assessments of communities' access to drinking water every three years (with the first assessment being conducted by 1 July 2026);
- territorial authorities are responsible for undertaking assessments of wastewater and stormwater services every three years (with the first assessment being conducted by 1 July 2029);
- a water service provider that is responsible for water supply services has an obligation to ensure water supplies in situations where a drinking water supplier in its district / service area (that is not another water service provider) is facing a significant problem or potential problem in relation to any of its drinking water supplies;
- water service providers are able to close down or transfer a small water service that has been operated by the provider, but it is no longer appropriate to maintain (if specified processes are followed and requirements are met).

Future decisions about structural arrangements

Subpart 1 of Part 2 of the standalone Act includes provisions that apply to a territorial authority that is considering making a structural change to the provision of water services in its district (a "change proposal") by doing one or more of the following:

- establishing a water organisation;
- becoming a shareholder in a water organisation established by the territorial authority or by another territorial authority;
- disestablishing, or changing the shareholding arrangements in, a water organisation in which the territorial authority is a shareholder;
- transferring responsibility for providing water services to a water organisation (or receiving a transfer back from a water organisation);
- entering into a contract that the territorial authority determines to be a significant contract;
- entering into a joint water service provider arrangement that the territorial authority determines to be a significant arrangement.

In these situations, the territorial authority must act in accordance with requirements in subpart 1 of Part 2 of the standalone Act relating to:

- the identification and assessment of options; and
- consultation – including regarding the information to be made publicly available when consulting on the above change proposals.

These requirements also apply (with necessary modifications) if a water organisation is considering entering into a contract or joint water service provider arrangement that it determines to be significant.

In addition, the consultation requirements apply to a territorial authority that is considering transferring ownership or control of a strategic water services asset or making a significant change to the level of service provided in relation to any water service – unless such a proposal is already part of another proposal that is being consulted on (a change proposal, a proposal in a water services strategy, or a water services delivery plan).

The standalone Act clarifies how the requirements it contains interact with other legislation that includes consultation and decision-making provisions. The provisions in the standalone Act apply:

- instead of sections 56, 77, 82A(2), and 97 of the LGA02;³
- to any decision making and consultation by a territorial authority in relation to a structural change proposal that occurs after a water services delivery plan has been accepted by the Secretary for Local Government under section 20 of the Local Government (Water Services Preliminary Arrangements) Act 2024.⁴

Requirements for significance and engagement policies

Subpart 1 of Part 2 of the standalone Act contains provisions for significance and engagement policies. There are also other provisions throughout the standalone Act that refer to significance and engagement policies, including requirements for certain information to be contained in a policy, or that consultation/engagement must be undertaken in accordance with a policy.

Territorial authorities will already have significance and engagement policies, adopted under section 76AA of the LGA02. Each territorial authority is required to amend its policy to:

- suit the authority's role, and any changes to its role – as a water service provider, or as a shareholder in a water organisation; and
- remove any matters that are no longer needed and are instead required to be included in the significance and engagement policy of a water organisation.

Water organisations are required to adopt a significance and engagement policy under the standalone Act, in accordance with the content, purpose, and preparation requirements in subpart 1 of Part 2. The approach in the standalone Act is designed to:

- recognise that water organisations are not required in the legislation to consult with consumers/communities – because water organisations are accountable to, and required to consult with, shareholders (as owners and elected representatives of consumers/communities);

³ Note that consequential amendments have been made to section 97 of the LGA02, which mean it does not apply to any decisions relating to a water services asset or level of service for a water service under the standalone Act, or in relation to a water services delivery plan under the Local Government (Water Services Preliminary Arrangements) Act 2024.

⁴ The alternative arrangements in Part 3 of the Local Government (Water Services Preliminary Arrangements) Act apply to any decision making and consultation that occurs before the acceptance of a plan, but do not apply after the date of acceptance – including in relation to amendments to the plan made under section 23 of that Act.

- enable each water organisation to develop a flexible and locally-appropriate approach to engagement, which accommodates the preferences and expectations of shareholders and consumers/communities.

A water organisation must adopt its first policy within 12 months of the organisation being established, or, if the organisation was already providing water services before the commencement of the standalone Act, within 12 months of the commencement date. A policy can then be amended at any time – but must be amended if there is a change to the organisation’s responsibilities for water services.

When preparing a significance and engagement policy, a water organisation must engage with its shareholders, consumers, and communities. It must obtain its shareholders’ approval of the proposal policy.

The water organisation – and any territorial authority shareholders – must together:

- identify any matters addressed by the organisation’s proposed policy and one or more of the authorities’ significance and engagement policies;
- consider the respective roles and responsibilities of the organisation and the authorities; and
- agree on amendments to the organisation’s proposed policy and the authorities’ policies that minimise unnecessary duplication and inconsistency between them.

What does this mean for councils and council-controlled organisations (CCOs)?

From enactment, territorial authorities and any existing water services CCOs (including Watercare) will become “water service providers” and subject to the requirements set out in the standalone Act.

Although some aspects of the standalone Act are similar to, or based on, provisions that applied under the LGA02, there are differences. This means that, even where a territorial authority chooses to carry on providing water services in-house, it will need to comply with many new requirements under the standalone Act – and some provisions in the LGA02 no longer apply.⁵

For example, from 2027, all water service providers will prepare water services strategies – instead of including detailed information on water services in long-term plans and infrastructure strategies under the LGA02. (Further details, including timeframes, are in the factsheet [Planning and accountability for local government water services.](#))

⁵ Note that provisions in the LGA02 that related to water services – including almost all of subparts 1 and 2 of Part 7 – have been repealed and relocated to the standalone Act (with modifications as appropriate). Consequential amendments to the LGA02 have been made through the Repeals and Amendments Act.

Another difference relates to contracting arrangements. Under the standalone Act, water service providers may enter into contracts with third parties for up to 50 years. There are also provisions designed to improve the nature of contractual arrangements and procurement processes, particularly for significant contracts. These include that:

- consultation is required for significant contracts, and water service providers must include information on how the contracted party has performed in their water services annual reports;
- each water service provider must ensure its significance and engagement policy includes the matters necessary for determining whether a contract is significant (such as the value of the contract and if it involves a public-private partnership), and how to undertake appropriate engagement in relation to proposed significant contracts;
- before entering into a contract that will create a public-private partnership, water service providers will be required to have regard to any relevant procurement rules and guidance issued by central government, and seek advice from a relevant central government agency or private sector experts;
- when negotiating a contract, a water service provider must consider whether compliance with current and anticipated regulatory requirements should be provided for in the contract;
- water service providers are able to ask third parties for certain information relating to providing water services under the contract, and the third party must provide the information requested as soon as reasonably practicable.

What happens to existing water services CCOs?

CCOs (such as Watercare) that already provide water services, or had been set up before the standalone Act commenced for the purposes of providing water services, and which intend to continue to do so after enactment, automatically became water organisations upon enactment. This means they are subject to the standalone Act, and the responsibilities and obligations that apply to other water service providers.

As set out in transitional provisions in Schedule 1 of the standalone Act, an existing water services CCO is considered a water organisation for six months after enactment. It will continue to be considered a water organisation after the expiry of the six-month period if, within that period, the board of the organisation adopts a document that confirms the organisation complies with certain requirements in the standalone Act.⁶ Each territorial authority that established the CCO must enter into a transfer agreement with the organisation within three years of enactment.

These transitional provisions do not apply to Watercare (which will be a water organisation without the need to meet these requirements).

⁶ These are the requirements to be a company, the ownership requirements, and the role requirements (unless exempted), and the requirements that apply to the appointment of board directors.

The definition of CCO in the LGA02 has been amended to include a reference to water organisations. These changes mean that “council-controlled organisation” also includes a water organisation within the meaning of section 4 of the Local Government (Water Services) Act 2025, if:

- the organisation is owned by one or more local authorities; or
- the organisation is owned by one or more local authorities and the trustees of one or more consumer trusts, and the local authorities hold 50 percent or more of the shares and voting rights in the organisation.

This helps to clarify where a water organisation is also a CCO.

However, many of the provisions in the LGA02 that usually apply to CCOs will not apply if they are water organisations. For example, the planning and reporting requirements in Part 4 of the standalone Act (such as the statement of expectations, water services strategy, and water services annual reports), and some of the governance requirements in Part 2 of the standalone Act, apply instead of provisions in Part 5 of the LGA02.

Consequential amendments have been made to the LGA02 – and Local Government (Auckland Council) Act 2009, in the case of Watercare – to clarify which provisions do not apply to CCOs that are water organisations.⁷

Transitional provisions have also been inserted into Schedule 1AA of the LGA02 to deal with the interactions with LGA02 planning and reporting documents during the interim period. These provisions mean that any existing planning and reporting documents for CCOs under Part 5 of the LGA02 continue to apply until the first (replacement) documents under Part 4 of the standalone Act are provided to, or adopted by, the water organisation.

Further information

The Local Government (Water Services) Act 2025 and Local Government (Water Services) (Repeals and Amendments) Act 2025 are available at www.legislation.govt.nz

For further information about Local Water Done Well, including guidance and information for councils, visit www.dia.govt.nz/Water-Services-Policy-and-Legislation

Questions? Contact waterservices@dia.govt.nz

⁷ Amendments to the LGA02 and other legislation have been made through the Repeals and Amendments Act.