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## Legal effect of rules (ss 86A-86G)

### 86A Purpose of sections 86B to 86G

(1) The purpose of sections 86B to 86G is to specify when a rule in a proposed plan or change described in section 86B(6) has legal effect.

(2) Except to the extent that subsection (1) applies, sections 86B to 86G do not limit or affect the weight that a consent authority gives to objectives, policies, and other issues, reasons, or methods in plans before the plan becomes operative.

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**Compendium** (cases and commentary)

#### History

ss 86A-86G & cross-heading: Inserted on 1 October 2009 by 2009 No 31, s 68.

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### 86B When rules in proposed plans and changes have legal effect

(1) A rule in a proposed plan has legal effect only once a decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1, except if--

- (a) subsection (3) applies; or
- (b) the Environment Court, in accordance with section 86D, orders the rule to have legal effect from a different date (being the date specified in the court order); or
- (c) the local authority concerned resolves that the rule has legal effect only once the proposed plan becomes operative in accordance with clause 20 of Schedule 1.

(2) However, subsection (1)(c) applies only if--

- (a) the local authority makes the decision before publicly notifying the proposed plan under clause 5 of Schedule 1; and
- (b) the public notification includes the decision; and
- (c) the decision is not subsequently rescinded (in which case the rule has legal effect from a date determined in accordance with section 86C).

(3) A rule in a proposed plan has immediate legal effect if the rule--

- (a) protects or relates to water, air, or soil (for soil conservation); or
- (b) protects areas of significant indigenous vegetation; or
- (c) protects areas of significant habitats of indigenous fauna; or
- (d) protects historic heritage; or
- (e) provides for or relates to aquaculture activities.

(4) For the purposes of subsection (2)(c), a decision is **rescinded** if--

- (a) the local authority publicly notifies that the decision is rescinded; and
- (b) the public notice includes a statement of the decision to which it relates and the date on which the rescission was made.

(5) For the purposes of subsection (3), **immediate legal effect** means legal effect on and from the date on which the proposed plan containing the rule is publicly notified under clause 5 of Schedule 1.

(6) *Repealed*

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### Compendium (cases and commentary)

#### History

s 86B(3)(e): Repealed and substituted on 1 October 2011 by Resource Management Amendment Act (No 2) 2011 (2011 No 70, s 18(1)).

The repealed s 86B(3)(e) is listed below for reference

- (e) provides for or relates to an aquaculture management area.

s 86B(6): Repealed on 1 October 2011 by Resource Management Amendment Act (No 2) 2011 (2011 No 70, s 18(2)).

The repealed s 86B(6) is listed below for reference

(6) A rule in a change to a plan proposed by a person under Part 2 of Schedule 1 that provides for or relates to an aquaculture management area and that has been accepted by the local authority under clause 25(2)(b) of Schedule 1 has legal effect on and from the date the change is publicly notified under clause 26(b) of that schedule.

ss 86A-86G & cross-heading: Inserted on 1 October 2009 by 2009 No 31, s 68.

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### 86C When rule has legal effect if decision to delay its effect is rescinded

(1) This section applies to a rule to which section 86B(1)(c) applies that is rescinded (within the meaning of subsection (4) of that section).

(2) The rule has legal effect from the later of--

- (a) the day after the date on which the local authority concerned publicly notifies that the decision in relation to the rule is rescinded;
- (b) the day that a decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1.

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**Compendium** (cases and commentary)

**History**

ss 86A-86G & cross-heading: Inserted on 1 October 2009 by 2009 No 31, s 68.

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**86D Environment Court may order rule to have legal effect from date other than standard date**

(1) In this section, **rule** means a rule--

- (a) in a proposed plan or change; and
- (b) that is not a rule of a type described in section 86B(3)(a) to (e) or (6).

(2) A local authority may apply before or after the proposed plan is publicly notified under clause 5 of Schedule 1 to the Environment Court for a rule to have legal effect from a date other than the date on which the decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1.

(3) If the Court grants the application, the order must specify the date from which the rule is to have legal effect, being a date no earlier than the later of--

- (a) the date that the proposed plan is publicly notified; and
- (b) the date of the court order.

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**Compendium** (cases and commentary)

## History

ss 86A-86G & cross-heading: Inserted on 1 October 2009 by 2009 No 31, s 68.

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### **86E Local authorities must identify rules having early or delayed legal effect**

(1) A local authority must clearly identify any rule in a proposed plan that has legal effect from a date other than the date on which the decision on submissions relating to the rule is made and publicly notified under clause 10(4) of Schedule 1--

- (a) at the time the proposed plan is notified under clause 5 of the Schedule; or
- (b) as soon as practicable after the date is determined, if the rule concerned is the subject of an application under section 86D and the application is not determined before the proposed plan is notified.

(2) A local authority must clearly identify any rule of a type described in section 86B(6) at the time the change containing the rule is publicly notified.

(3) The identification of a rule in a proposed plan or change under subsection (1) or (2)--

- (a) does not form part of the proposed plan or change; and
  - (b) may be removed, without any further authority than this subsection, by the local authority once the plan or change becomes operative in accordance with clause 20 of Schedule 1.
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## Compendium (cases and commentary)

## History

ss 86A-86G & cross-heading: Inserted on 1 October 2009 by 2009 No 31, s 68.

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### **86F When rules in proposed plans must be treated as operative**

A rule in a proposed plan must be treated as operative (and any previous rule as inoperative) if the time for making submissions or lodging appeals on the rule has expired and, in relation to the rule,--

- (a) no submissions in opposition have been made or appeals have been lodged; or
- (b) all submissions in opposition and appeals have been determined; or
- (c) all submissions in opposition have been withdrawn and all appeals withdrawn or dismissed.

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**Compendium** (cases and commentary)

**History**

ss 86A-86G & cross-heading: Inserted on 1 October 2009 by 2009 No 31, s 68.

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**86G Rule that has not taken legal effect or become operative excluded from references to rule in this Act and regulations made under this Act**

(1) A reference in this Act or in any regulations made under it to a rule in a proposed plan or a change does not include a reference to a rule in the proposed plan or change that--

- (a) has not taken legal effect in accordance with section 86B; or
- (b) has not become operative under section 86F.

(2) Subsection (1) applies subject to any express provision to the contrary in this Act.

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**Compendium** (cases and commentary)

**History**

ss 86A-86G & cross-heading: Inserted on 1 October 2009 by 2009 No 31, s 68.

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Time Of Request: Monday, November 11, 2013 12:07:54