

Statutory criteria and processes for our regulation of water services

20 August 2026



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Chapter 1 Introduction

Kupu whakataki

- 1.1 In August 2025, the Government introduced changes to Part 4 of the Commerce Act 1986 (**Part 4**) that established the Commerce Commission’s enduring role as the economic regulator for water services.
- 1.2 At the same time, the Government introduced a new Part 4A of the Act (**Part 4A**), providing the Commission with complementary consumer protection powers for water services.
- 1.3 We have published separate guidance on our ‘toolkit’ for regulating water services under Parts 4 and 4A of the Commerce Act (the **Act**), and our approach to considering which regulatory tool to use when. That guidance, “Which tool when: Our approach to applying our regulatory toolkit for water services”, is available on our [website](#).
- 1.4 This paper is a companion to “Which tool when”:
 - 1.4.1 **Chapters 2 and 3** summarise the key statutory processes and criteria we are required to apply in amending, adding, removing or extending requirements for regulating water services under Part 4 and Part 4A of the Act.
 - 1.4.2 **Chapter 4** gives an overview of our general approach to compliance and enforcement.
 - 1.4.3 **Attachment A** provides a glossary of key terms we use in this paper.
- 1.5 All section or clause references in this paper refer to sections and clauses in the Act.

Chapter 2 Statutory criteria and processes applying to economic regulation (Part 4)

Paearu ā-ture me ngā tukanga mō te waeture ohaoha (Wāhanga 4)

2.1 In this chapter, we provide information on:

- 2.1.1 the purpose of Part 4
- 2.1.2 the process we must follow to amend existing regulatory determinations, eg, to implement any changes to information disclosure (ID) requirements
- 2.1.3 the process we must follow to implement a type of regulation that is currently available, but not yet implemented (for example, this process would apply if we proposed to implement revenue threshold regulation, or requirements that give effect to the ring-fencing purpose)
- 2.1.4 the process we must follow to recommend further regulation (or deregulation) to the Minister.¹

Purpose of Part 4

Te pūtake o Wāhanga 4

2.2 All of our decisions and recommendations for economic regulation of water services are guided by the purpose of Part 4 (section 52A(1) of the Act):

- (1) The purpose of this Part is to promote the long-term benefit of consumers in markets referred to in section 52 by promoting outcomes that are consistent with outcomes produced in competitive markets such that suppliers of regulated goods or services—
 - (a) have incentives to innovate and to invest, including in replacement, upgraded, and new assets; and
 - (b) have incentives to improve efficiency and provide services at a quality that reflects consumer demands; and
 - (c) share with consumers the benefits of efficiency gains in the supply of the regulated goods or services, including through lower prices; and
 - (d) are limited in their ability to extract excessive profits.

¹ The Minister responsible for the administration of the Commerce Act. At the time the water regulatory regime came into force, the relevant Minister was the Minister of Commerce and Consumer Affairs.

- 2.3 Ring-fencing of revenue has a specific purpose, relating to principles set out in the Local Government (Water Services) Act 2025 (**LGWS Act**):²

... to ensure that regulated suppliers act in accordance with the following as applied to regulated water services:

- (a) the financial principle in section 18(1)(a) of the Local Government (Water Services) Act 2025:
- (b) section 18(3) of that Act.

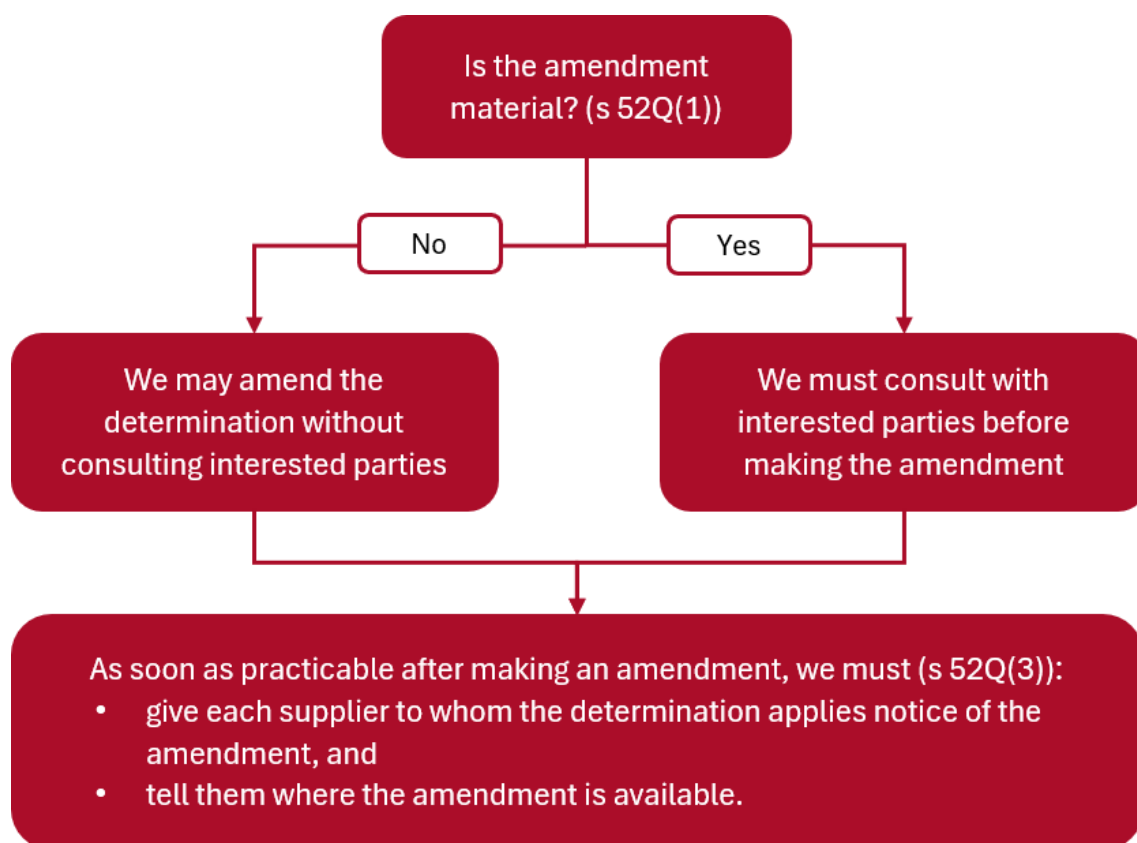
The process we must follow to amend existing requirements

Te tukanga me mātua whai e mātou hei whakatikatika i ngā herenga

- 2.4 Regulatory requirements for regulated services under Part 4 are implemented through determinations by the Commission under section 52P of the Act.
- 2.5 The process for amending existing regulatory requirements (for example, a section 52P determination with ID requirements) is set out in section 52Q of the Act.
- 2.6 The process would also apply to amendments to any future regulatory requirements we might implement under Part 4.

² Schedule 7, clause 4.

Figure 2.1 Process for amending a section 52P determination

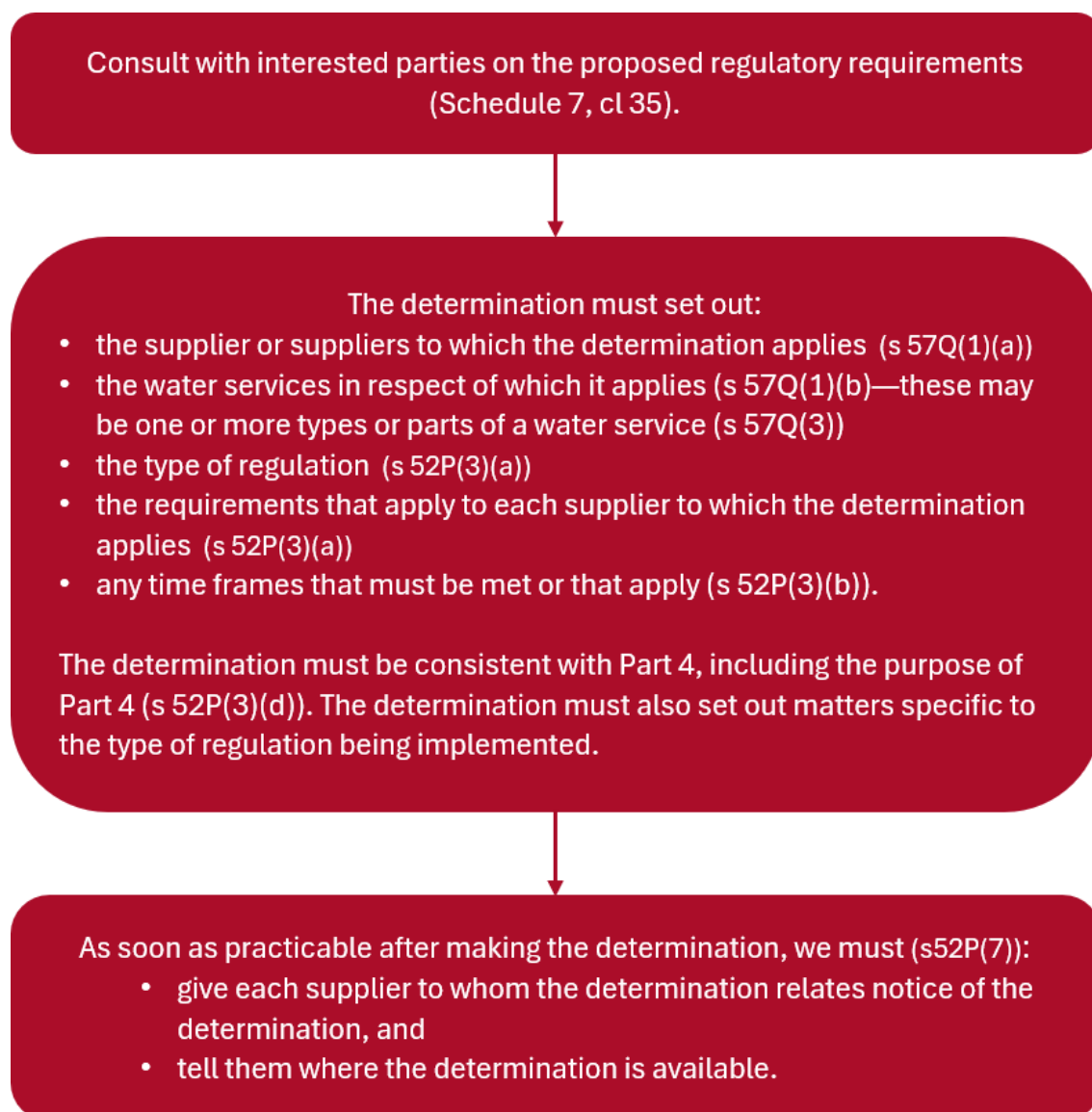


The process we would follow to implement a type of regulation that is currently available, but not yet applied

Te tukanga ka whāia e mātou hei whakamahi i te tūmomo waeture e wātea ana, heoi kāore anō kia whakamahia

- 2.7 For water supply and wastewater services already subject to revenue threshold regulation under section 57D(1), if we decide to implement this regulation, we would do so through a s 52P determination. Revenue threshold regulation for other water services (eg, stormwater services) or other suppliers would first require the further regulation process described below.
- 2.8 The section 52P process also applies should we decide to implement requirements that give effect to the ring-fencing purpose, as provided for in Schedule 7, clause 5(1) of the Act. (If we decide to address ring-fencing through ID requirements, the process for setting or amending a section 52P determination would apply.)
- 2.9 The diagram below shows the process we must follow when making section 52P determinations.

Figure 2.2 Process for implementing regulation through section 52P



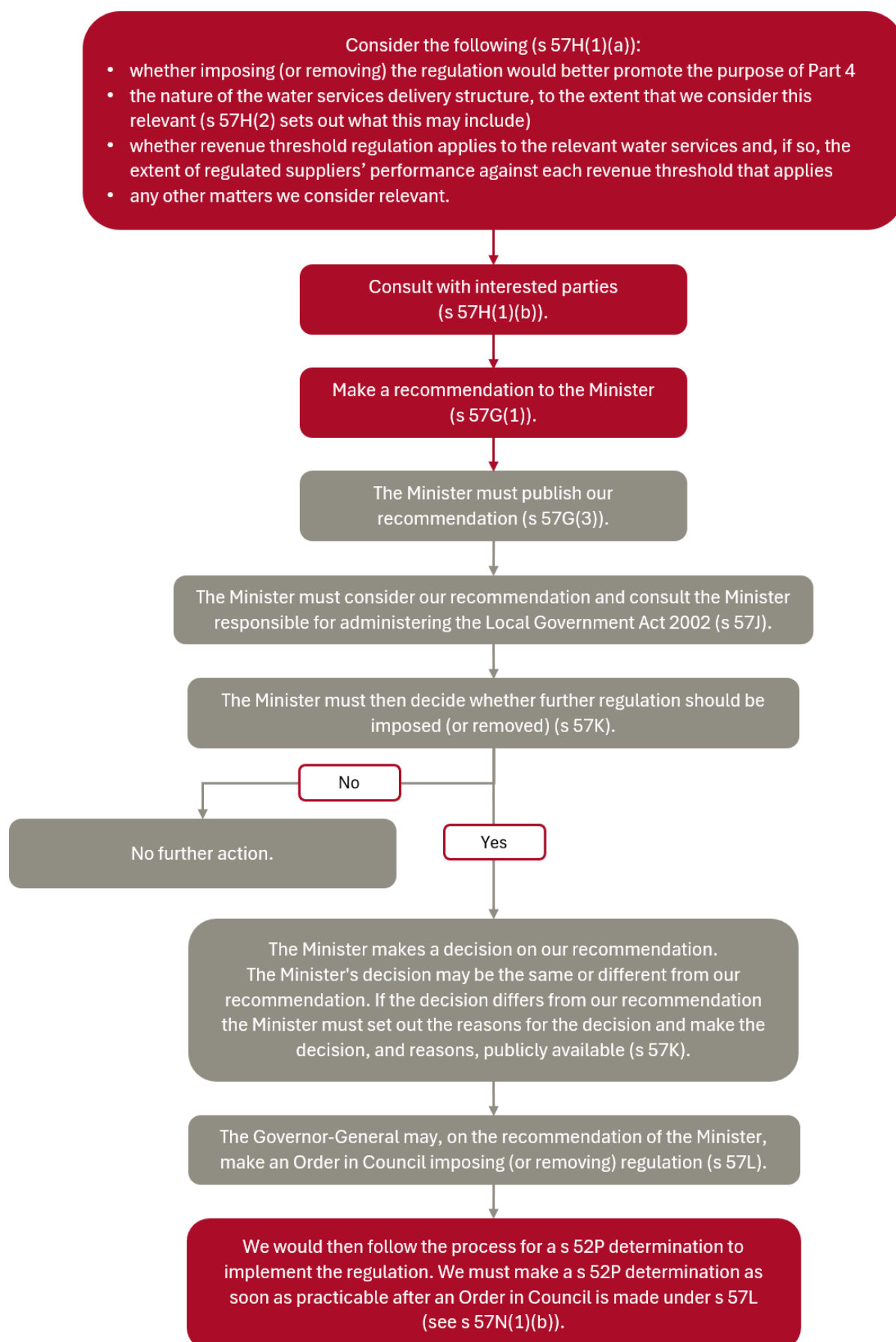
- 2.10 Unlike other services regulated under Part 4 of the Act, in regulating water services, we may make determinations under section 52P for ID requirements or price-quality regulation (**PQ regulation**) without first determining an input methodology (section 57P(1)). This is the case for determinations we make in the first 10 years of the regulatory regime (Schedule 7, clause 32). The Minister may specify an earlier or later date for the introduction of input methodologies, with our agreement.

The process we must follow to recommend further regulation (or deregulation) to the Minister

Te tukanga me mātua whai e matou hei tūtohi ki te Minita kia whakarite waeture atu anō (kia whakakorengia rānei)

- 2.11 Under Part 4 of the Act, ID regulation and revenue threshold regulation apply to water supply services and wastewater services supplied by decision-making local government water service suppliers (section 57D(1)).
- 2.12 Watercare Services Limited's water supply services and wastewater services are also subject to PQ regulation (section 57F).
- 2.13 Part 4 sets a process and criteria for us to recommend to the Minister that further regulation be imposed (or removed) in respect of one or more suppliers or water services, eg, stormwater services (see, in particular, sections 57G and 57H for the process and criteria, and section 57B for changes to the scope of water services).
- 2.14 Our main focus in making such a recommendation is on whether imposing the additional regulation (or removing suppliers from regulation) would better promote the purpose of Part 4.
- 2.15 The figure over the page illustrates the process that we, and the Minister, must follow. The red elements indicate steps we must take. The grey elements indicate steps the Minister and Governor-General take in response to a recommendation from the Commission.
- 2.16 Important points to note are:
 - 2.16.1 The Minister may not decide that regulation should be imposed (or removed) unless we have considered and recommended that, but the Minister's decision may otherwise be the same as, or different from, our recommendation (section 57K(2)).
 - 2.16.2 Section 57Z provides that Part 4A (consumer protection) applies to water services to which ID regulation applies, and regulated suppliers of those services.
 - 2.16.3 This means that if the Minister agrees to extend the application of ID regulation by including additional services (eg, stormwater) or other suppliers of water services, Part 4A would automatically apply to the additional services or suppliers.

Figure 2.3 Process for further regulation (or deregulation) of water services



Chapter 3 Statutory criteria and processes applying to consumer protection regulation (Part 4A)

Paearu ā-ture me ngā tukanga mō te waeture whakamaru kiritaki (Wāhanga 4A)

3.1 In this section we provide information on:

3.1.1 the purpose of Part 4A

3.1.2 the processes and criteria that apply to consumer protection regulation under Part 4A of the Act:

3.1.2.1 ID requirements relating to consumer protection

3.1.2.2 regulations to protect consumers of water services

3.1.2.3 service quality codes, and

3.1.3 the process we must follow to make or amend a Commission service quality code.

Purpose of Part 4A

Te pūtake o Wāhanga 4A

3.2 In making decisions on consumer protection under Part 4A, we give effect to the purpose of that Part (section 57X of the Act):

The purpose of this Part is to provide for—

(a) consumer protection by water services suppliers to which this Part applies; and

(b) improvements in the quality of service provided to consumers by those suppliers, to reflect consumer demands.

Information disclosure requirements relating to consumer protection

Ngā herenga tūtohu mōhiohio mō te whakamaru kiritaki

3.3 We may include ID requirements relating to protecting consumers of water services in a section 52P determination relating to ID regulation.

Regulations to protect consumers of water services (section 57ZB)

Ngā waeture whakamaru kiritaki mō ngā ratonga wai (tekiona 57ZB)

- 3.4 Part 4A provides the option of making regulations to protect consumers of water services, covering such matters as information regulated suppliers must provide to consumers, consumer complaints processes, external dispute resolutions, or other matters.³
- 3.5 The Minister may on their own initiative, or following a recommendation from us, recommend the Governor-General make regulations under Part 4A.
- 3.6 Before making such a recommendation to the Minister, we must consider:
 - 3.6.1 whether consumer interests are adequately protected, and the purpose of Part 4A is adequately promoted, or would be better protected or promoted by the proposed regulations
 - 3.6.2 whether proposed regulations would unduly duplicate other regulatory requirements that apply to water services or regulated suppliers, and
 - 3.6.3 any other matters we consider to be relevant.
- 3.7 We must also consult with the Water Services Authority – Taumata Arowai and other interested persons before making a recommendation.
- 3.8 Similar criteria apply to the Minister’s consideration of whether to recommend consumer protection regulation under Part 4A (section 57ZB(4)(a) and (b)). In addition, the Minister must:
 - 3.8.1 also consult with the Minister responsible for administering the Water Services Act 2021, the Minister responsible for the Water Services Authority—Taumata Arowai, and with the Commission
 - 3.8.2 for any proposed regulations relating to external dispute resolution, be satisfied that, without the proposed regulations, consumers of water services will not have (or are unlikely to have) adequate dispute resolution procedures.

³ Section 57ZB.

Service quality codes

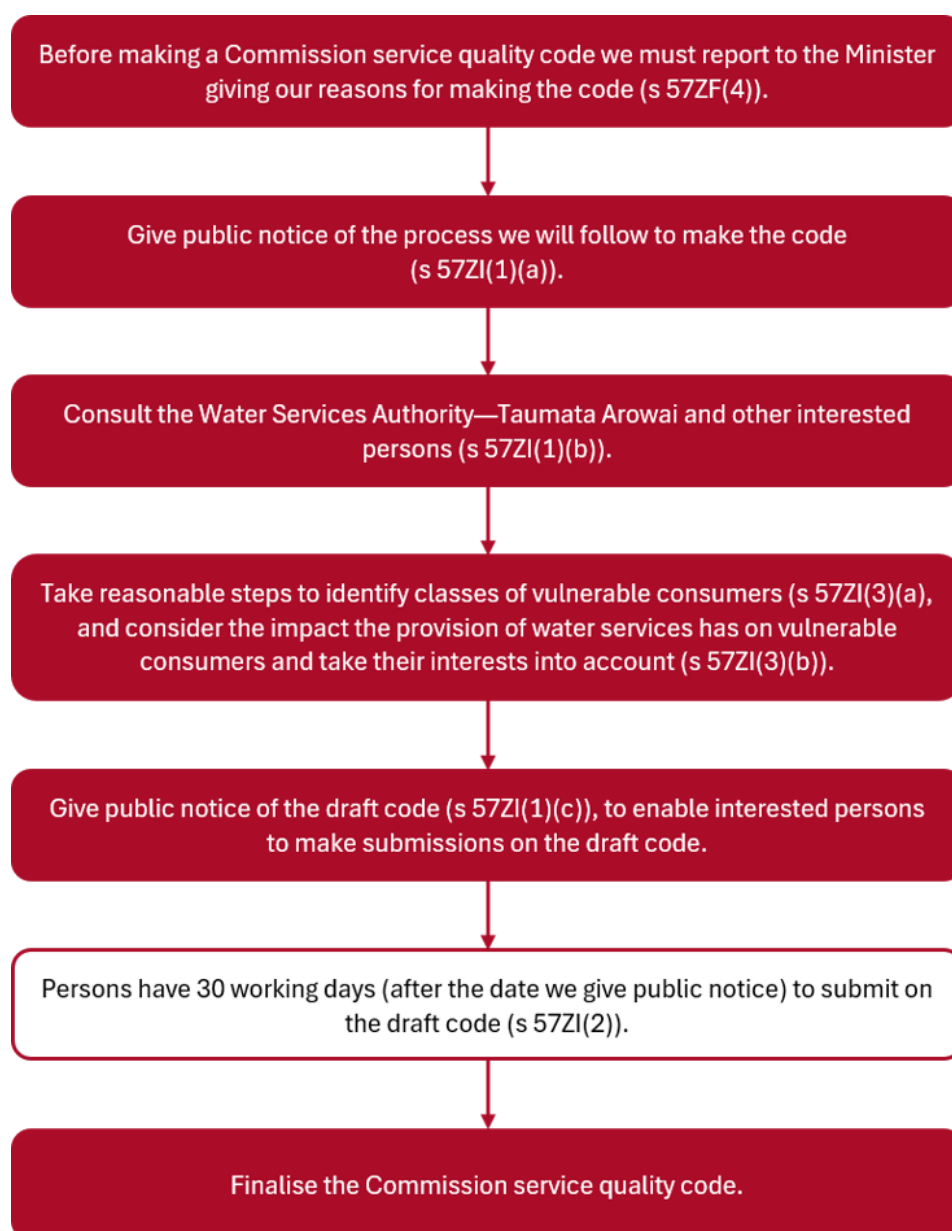
Waehere kounga whakarato

- 3.9 The purpose of a service quality code is set out in section 57ZC:
- to improve service quality to reflect the demands of consumers of water services.
- 3.10 The Act gives us the ability to:
- 3.10.1 issue guidelines to the water services industry relating to service quality codes (section 57ZD)
 - 3.10.2 review industry service quality codes (section 57ZE), or
 - 3.10.3 make a Commission service quality code, on our own initiative or following a recommendation from the Minister (section 57ZF).

Making a Commission service quality code

- 3.11 Section 57ZG sets out what a Commission service quality code must, or may, contain. Under section 57ZF(3), we may only make a service quality code if:
- 3.11.1 no industry service quality code has been made in relation to the service in question, or
 - 3.11.2 an industry service quality code has been made in relation to the service, but in our, or the Minister's, opinion that code fails to achieve the purpose of Part 4A, or a Commission service quality code would better achieve the purpose.
- 3.12 Figure 3.1 shows the process we must follow in making or amending a Commission service quality code.

Figure 3.1 Process for making a Commission service quality code



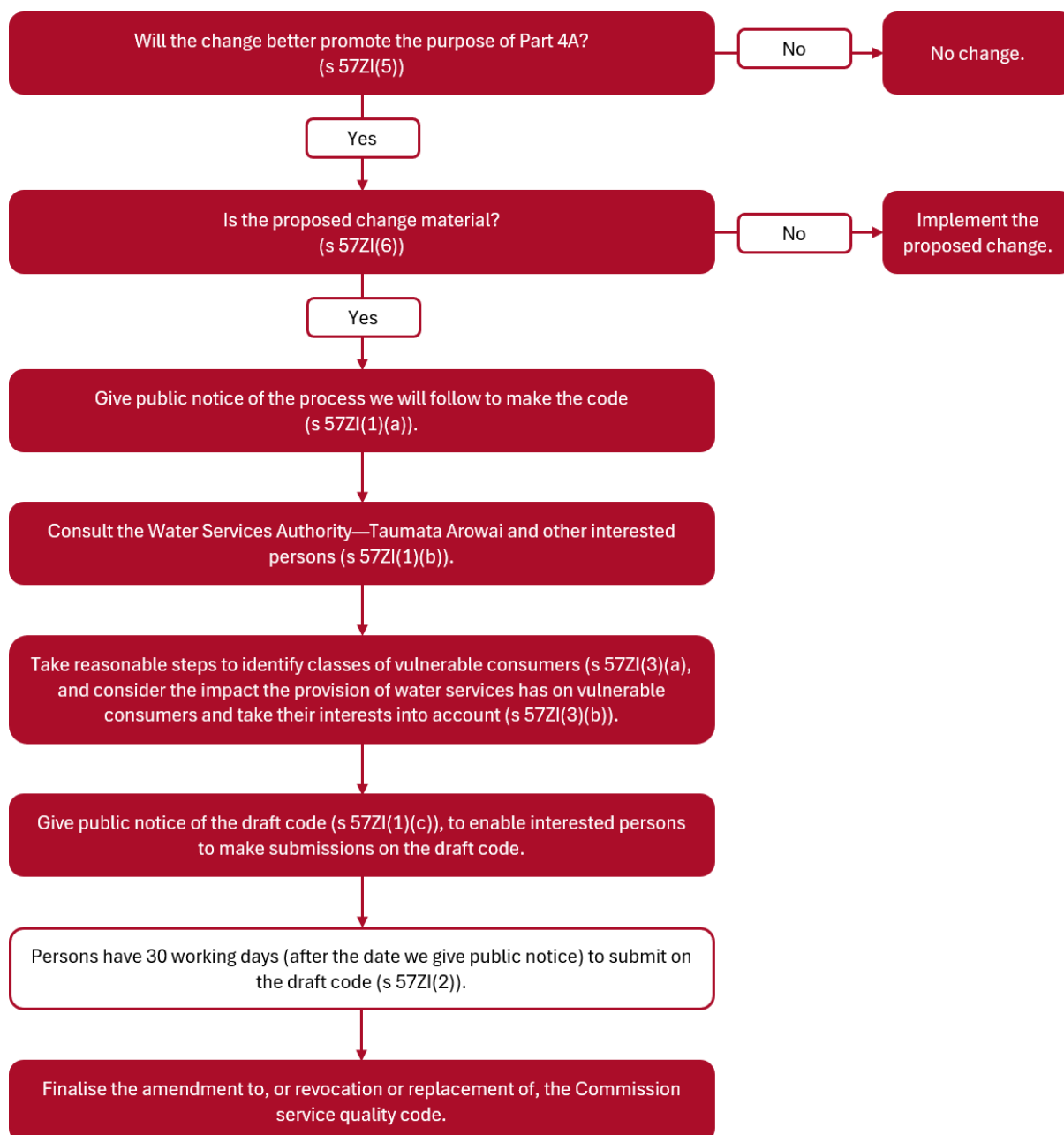
Amending, revoking and replacing, a Commission service quality code

3.13 A similar process to that in figure 3.1 applies to any material amendments to a Commission service quality code. Figure 3.2 shows the process that applies where we propose a material amendment to a Commission service quality code, or where we propose revoking and replacing a Commission code. The key differences (compared to making a new Commission service quality code) are:

- 3.13.1 we may only amend or revoke and replace the code if we consider that the code should be changed to better promote the purpose of Part 4A, and
- 3.13.2 when amending, revoking or replacing a Commission service quality code, we are not required to first provide a report to the Minister.

- 3.14 The process in figure 3.2 only applies for material amendments to a service quality code. If an amendment is not material, we are not required to follow the consultation process illustrated below.

Figure 3.2 Process for making material amendments to a Commission service quality code, or revoking and replacing a Commission code



Extension of consumer protection regulation to other services or suppliers

Te torohanga o te waeture whakamaru kiritaki ki ētahi atu ratonga, kaituku rānei

- 3.15 If the Minister agrees to extend the application of ID regulation under Part 4 by including additional services (eg, stormwater) or other suppliers of water services, Part 4A would automatically apply to the additional services or suppliers (see paragraph 2.16). We covered the process for this above.

Chapter 4 Compliance and enforcement

Te whakaaetanga me te whakaūnga

Compliance requirements for regulatory determinations

Herenga whakaaetanga mō te whakataunga waeture

- 4.1 Regulated suppliers must comply with regulatory determinations that apply to them,⁴ with the exception of revenue threshold regulation.
- 4.2 Where we have set a section 52P determination relating to revenue threshold regulation for a regulated supplier:
 - 4.2.1 the supplier is not required to comply with the revenue threshold (Schedule 7, clause 10(a))
 - 4.2.2 we may exercise any of our powers under the Act in order to monitor the supplier's performance against the revenue threshold (Schedule 7, clause 10(b)), and
 - 4.2.3 we must consider performance against the threshold before recommending the Minister agree to additional regulation (Schedule 7, clause 10(c)).
- 4.3 Thus, unlike other types of regulation, revenue threshold regulation does not allow us to impose enforceable requirements. Instead, it enables us to set clear expectations of the minimum and/or maximum revenue a regulated supplier (or suppliers) should be recovering from providing one or more service(s).⁵
- 4.4 For consumer protection requirements under Part 4A, suppliers must comply with any Commission service quality code, or regulations, made under Part 4A.

⁴ Section 53B(1), and Schedule 7, clauses 5(2), 12, 18, and 22.

⁵ As we discuss in the accompanying guidance paper "Which tool when: Our approach to applying our regulatory toolkit for water services", revenue thresholds create a reputational incentive on the supplier(s), which may be strengthened by the possibility of further regulation if our expectations are not met. (Commerce Commission "Which tool when: Our approach to applying our regulatory toolkit for water services" (2026), available on our [website](#), para 2.15 to 2.19 and 4.4 to 4.6.)

Our role in monitoring and enforcing compliance

Tā mātou mahi hei aroturuki, hei whakaū whakaaetanga anō hoki

- 4.5 For regulation under Part 4, our enforcement powers are provided for in Part 6 of the Act, and in particular sections 86 to 87C.
- 4.6 Under Part 4A, we are required to monitor compliance with consumer protection regulations or a Commission service quality code. Sections 57ZJ to 57ZV give us options for addressing non-compliance.
- 4.7 Our approach to compliance and enforcement is proportionate, and applies the Commission's Enforcement Response Guidelines (available on our [website](#)). We:
 - 4.7.1 prioritise compliance and enforcement activities taking account factors such as the nature of the non-compliance and the magnitude of the impact on consumers, including vulnerable consumers
 - 4.7.2 emphasise helping suppliers to understand their obligations, encouraging compliance, and bringing suppliers' attention to any instances of non-compliance first, and
 - 4.7.3 take more serious enforcement action where appropriate, for example, where softer approaches have been unsuccessful.

Attachment A Glossary

Kupu taka

Term/Abbreviation	Definition
Act	Commerce Act 1986
Commission	Commerce Commission
determination	In this document ‘determination’ means a determination made under section 52P of the Commerce Act, specifying how the relevant forms of regulation apply to regulated suppliers (eg, the Water Information Disclosure Determination 2026). Determinations made under section 52P, and amendments to determinations, are secondary legislation (see the Legislation Act 2019)
ID	Information disclosure
LGWS Act	Local Government (Water Services) Act 2025
Minister	The Minister responsible for the administration of the Commerce Act. At the time the water regulatory regime came into force, the relevant Minister was the Minister of Commerce and Consumer Affairs
Part 4	Part 4 of the Commerce Act 1986
Part 4A	Part 4A of the Commerce Act 1986
PQ regulation	Price-quality regulation
Regulated services	Water supply and wastewater services, and any stormwater services declared to be regulated by Order in Council, see section 57C of the Commerce Act
Regulated supplier	Means a decision-making local government water supplier (as defined in section 57D(2) of the Commerce Act), or any supplier of water services declared to be regulated by Order in Council under section 57L of the Commerce Act
Treaty settlement obligations	Has the meaning given in section 4 of the Local Government (Water Services) Act 2025
Water services	Services provided to consumers by water service suppliers including drinking water, stormwater and wastewater services as defined under section 4 of the LGWS Act
Watercare	Watercare Services Limited
Watercare Charter	Local Government (Water Services Preliminary Arrangements) (Watercare Charter) Order 2025
WSPA Act	Local Government (Water Services Preliminary Arrangements) Act 2024