

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Amendment Bill

Government Bill

As reported from the Environment Committee

Commentary

Recommendation

The Environment Committee has examined the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Amendment Bill and recommends that it be passed with the amendment shown.

Introduction

This bill provides for a minor and technical amendment to the principal Act. It proposes to allow the Minister to recover from an applicant the actual and reasonable costs incurred in relation to a board of inquiry appointed under the Act to decide an application for marine consent.

The Act was previously amended by the Resource Legislation Amendment Act 2017 to include a board of inquiry process for marine consents. Those amendments largely mirrored a similar existing process under the Resource Management Act 1991. However, cost-recovery provisions were not included. This bill will therefore align the cost-recovery process under the principal Act with that of the Resource Management Act. It will also ensure that the process for conferring a private benefit is at a private, rather than public, cost.

Interested parties were consulted on the proposed bill before its introduction and no issues were raised.

Proposed amendment

We were told that after the bill was lodged a cross-referencing error was noticed. To address this, we recommend deleting “3” in clause 4.

Conclusion

The bill proposes a minor and technical amendment that will make resource management legislation more consistent. We recommend it be passed with the cross-referencing error corrected.

Appendix

Committee process

The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Amendment Bill was referred to the committee on 8 May 2018. We received advice from the Ministry for the Environment.

Committee membership

Dr Deborah Russell (Chairperson)

Sarah Dowie

Jenny Marcroft

Todd Muller

Hon Scott Simpson

Erica Stanford

Chlöe Swarbrick

Angie Warren-Clark

Poto Williams

**Exclusive Economic Zone and Continental Shelf
(Environmental Effects) Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

~~text deleted unanimously~~

Hon David Parker

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Amendment Bill

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New Part 2 inserted into Schedule 1	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Amendment Act **2018**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Amendment Bill	
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3	Principal Act
	This Act amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the principal Act).
4	Section 14 amended (Restriction on ministerial direction to Environmental Protection Authority)
	In section 14, replace “Parts 3 and 4” with “Parts 3, 3A, and 4”.
5	New section 52A inserted (Cost recovery for boards of inquiry)
	After section 52, insert:
52A	Cost recovery for boards of inquiry
(1)	The Minister may recover from an applicant the actual and reasonable costs incurred in relation to a board of inquiry appointed under section 52 or 99A.
(2)	The Minister must, upon request by an applicant, provide an estimate of the costs likely to be recovered under this section.
(3)	When recovering costs under this section, the Minister must have regard to the following criteria:
(a)	the sole purpose is to recover the reasonable costs incurred in respect of the matter to which the costs relate:
(b)	the extent to which any activity by the applicant reduces the costs to the Minister in carrying out any of the Minister’s functions, powers, or duties.
(4)	The costs referred to in subsection (1) are a debt due to the Crown that are recoverable by the EPA on behalf of the Crown in any court of competent jurisdiction.
(5)	The Minister may, in writing, delegate to the EPA his or her functions, powers, and duties under this section.
6	Section 99 amended (Application for consent for nationally significant cross-boundary activity referred to board of inquiry)
	Repeal section 99(5)(b).
7	Schedule 1 amended
	In Schedule 1, after Part 1, insert the Part 2 set out in the Schedule of this Act.

Schedule
New Part 2 inserted into Schedule 1

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Part 2	
Provision relating to the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Amendment Act 2018	5
3 Boards of inquiry in process before commencement of section 52A	
Section 52A does not apply to a board of inquiry appointed in respect of an application for a section 20 activity if the application—	
(a) was made before the date of commencement of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Amendment Act 2018 ; and	10
(b) complied with section 38.	

Legislative history

3 May 2018	Introduction (Bill 55–1)
8 May 2018	First reading and referral to Environment Committee