

Offshore Renewable Energy Bill

Government Bill

As reported from the Transport and Infrastructure Committee

Commentary

Recommendation

The Transport and Infrastructure Committee has examined the Offshore Renewable Energy Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

The bill proposes a framework for selecting and managing offshore renewable energy (ORE) developments. It would do so by creating:

- a two-stage permitting regime (feasibility permits and commercial permits)
- consultation requirements, including specific requirements for consultation with Māori groups
- obligations regarding decommissioning and financial security, to ensure that permit holders and owners of related transmission infrastructure are liable for decommissioning of ORE infrastructure
- provisions for safety zones around ORE infrastructure to protect infrastructure and people
- administration, monitoring, and enforcement provisions.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments. A full list of proposed amendments is available in the departmental report provided to us by advisers from the Ministry of Business, Innovation and Employment.

Excluded infrastructure

Because of the highly technical language of some aspects of this bill, many terms are defined. Clause 4 contains the definitions.

Submitters told us it is unclear whether permits would be required for infrastructure that would generate energy not directly intended for commercial gain, such as renewable energy infrastructure supporting aquaculture activities. We understand that the bill was not intended to capture small-scale generation in the first place, and we recommend amendments to reflect this. Specifically, we recommend amending clause 4 to include a definition of “excluded infrastructure”. Excluded infrastructure would be any infrastructure, structure, or installation, which would otherwise be considered ORE generation infrastructure, that has, or is proposed to have, a total generating capacity of no more than 30MW (or another amount set out through regulations), and either:

- does not, and is not intended to, have its main purpose be for commercial gain from the energy generated
- is used for either facilitating research development, demonstrating the energy generation potential of ORE technology, or another activity set out through regulations.

ORE generation infrastructure that is described in regulations as excluded infrastructure would also be included in this definition.

We also recommend amending the definition of “ORE generation infrastructure” to reference excluded infrastructure.

Feasibility permits

Clauses 13 to 23 outline the process and requirements for allocating feasibility permits. These permits would allow the permit holder to conduct feasibility studies within a defined area, while guaranteeing that no other offshore renewable energy developers could be approved to develop the same site. A feasibility permit would also give the holder the exclusive right to apply for a commercial permit, and to seek the relevant environmental consents in the permit area. The Minister would be able to impose permit conditions. The bill requires public consultation for feasibility permit applications, including specific obligations for consultation with relevant Māori groups.

Commercial permits

Clauses 24 to 32 outline the process and requirements for allocating commercial permits. These permits, along with relevant consents, would allow the holder to begin construction. The Minister would also be empowered to impose permit conditions to monitor and enforce the permit holder's obligations for the life of the development.

Proposed amendments to permitting regime

Requirement to include a deadline for feasibility permit applications

Clause 13(2) sets out the specific information that must be included in a public notice before the Minister opens an application round for feasibility permits. Clause 13(5) provides that the Minister may amend the notice before the application deadline. However, subclause (2) does not require the inclusion of a specific date and time in the notice given by the Minister. We recommend amending subclause (2) to require the public notice to specify the date and time by which applications must be received

Minister's process for launching a feasibility permit application round

The bill as introduced provides a framework for regulations to be made as required for the ORE regime. We understand it is intended that details of the regime will be set through regulations, operational practices and processes, and other instruments, rather than through primary legislation. We consider this approach appropriate, given the evolving nature of the renewable energy industry. Providing flexibility through regulations is intended to ensure the regime can remain responsive to developments.

Industry stakeholders who submitted to us suggested that the Minister should have regard to prescribed criteria when setting the geographical scope of application rounds. We recommend inserting clause 13(2A) to allow regulations to be made outlining matters that apply to the launching of a particular application round, such as criteria, guiding principles, and consultation requirements.

Determinations of applications that cover another ORE permit area

Clause 19(1)(b) states that the Minister must be satisfied that no other feasibility permit or commercial permit is current in a proposed permit area before granting an application for a feasibility permit. We note that one of the bill's intentions is to ensure exclusivity of ORE permit areas. To strengthen this, we recommend replacing clause 19(1)(b) with new clause 18(1A) to make the requirement clearer, by shifting it into the main clause providing for the Minister to decide on applications for feasibility permits, rather than placing it with the considerations affecting a decision.

Application requirements and eligibility criteria

Eligibility requirements for feasibility permits are set out in clauses 14 to 16. Similar provisions for commercial permits are set out in clauses 24 to 26. Clauses 14 and 15 set out eligibility criteria, while clause 16 sets out what information is required in feasibility permit applications. We consider it important that anyone applying for a permit understands the requirements of what they must provide in a permit application

and have recommended changes to improve the clarity and flow of these clauses. We recommend the deletion of all of clause 15 (and its equivalent in relation to commercial permits, clause 25).

For clarity, we also recommend:

- removing clause 15(a), to avoid repetition with clause 14(2)
- moving clauses 14(2) and 15(b), so that they become part of clause 16 which sets out application requirements
- that the equivalent change is made in clause 26, in relation to commercial permits.

Clause 15(c) as introduced states that a person is only eligible to apply for a feasibility permit if they are not already an applicant for another permit for the same type of technology in the same region. We understand that this provision is intended to promote competition and prevent developers from circumventing area size limits by applying for adjacent permit areas. However, submitters raised concerns that it could unduly restrain development. Clause 16 already requires permit areas to be of a “reasonable size”, which we consider would protect against a developer receiving a permit for an overly large area. We consider that the original intention of this clause could be achieved through non-legislative guidance. We therefore recommend removing clause 15(c), allowing applicants to apply for more than one permit within a region.

Consultation with Transpower New Zealand Limited and the Electricity Authority

Transpower New Zealand Limited is the state-owned enterprise responsible for New Zealand’s transmission grid. The Electricity Authority is a Crown entity responsible for regulating New Zealand’s electricity industry. Given the important roles that these agencies play in New Zealand’s energy system, we consider that they should both be consulted before the construction of any ORE infrastructure.

We recommend inserting clause 24A to require applicants for commercial permits to consult Transpower and the Electricity Authority before making a permit application.

Minister’s decision to grant or reject permit applications

Clauses 18 and 19 set out the processes and requirements the Minister must consider when determining whether to grant an application for a feasibility permit. Clauses 28 and 29 set out corresponding requirements for commercial permit applications. We recommend some amendments to these clauses, outlined below.

Public notice of application decisions

Some submitters recommended that there be more transparency about the decision-making process for granting or rejecting an application for a feasibility permit or commercial permit. To that end, they proposed that the Minister be required to make the decision and rationale publicly available.

We recommend amending clauses 18 and 28 to add subclause (6) to each, which would require the Minister to give public notice when an application has been granted or rejected. However, we do not support a mandatory inclusion of rationale in the public notice, as we think this could undermine commercial sensitivity and be administratively burdensome. We note that the Minister is still able to include an explanation if they chose to do so, but our proposed amendment would not require this.

Throughout our consideration of this bill, we were interested to know how the proposed regime differs from processes used in Australia. We understand that the Australian Offshore Electricity Infrastructure Act 2021 (OEI Act) requires an “Offshore Infrastructure Registrar” to keep a public register of offshore infrastructure licences, but does not require the Minister (or any other person) to publish any decisions relating to a licence application. In practice, decisions have been published to the Department of Climate Change, Energy, the Environment and Water’s website, though these notifications are fairly high-level. We note that our proposed amendments would create more legal requirements to publish decisions around applications than the Australian model, despite our recommendation not including the rationale behind a decision.

Time frame for applications to be made

The bill as introduced does not specify any time frames within which the Minister must determine whether a permit application has been successful. We consider that there may be instances where time frames may be needed. They could be set out in the notice giving the terms of the application round, or prescribed through regulations. As introduced, clause 20(2)(b) states that the Minister must, in a situation where there are two or more competing permit applications, determine an application in the manner, and within any time frames, prescribed by the terms of the application or through regulations.

We consider that a provision similar to that contained in clause 20(2)(b) should apply even when there are no competing applications. We recommend amending clauses 18 and 28 to add subclause (5) to each, requiring the Minister to comply with any time frames that are established for a permit round.

Considerations of applicant’s ability to carry out ORE development

Clause 29(1)(b) as introduced stipulates that, before granting a commercial permit, the Minister must be satisfied that the applicant has the technical and financial capability to install, operate, maintain, and decommission the proposed ORE generation infrastructure. Under clause 29(1)(c), the Minister must also be satisfied that the applicant is ready to carry out the proposed development plan.

We can envisage situations where an applicant seeking a commercial permit had not yet signed contracts with all relevant suppliers, and so would not at that time have the relevant technical and financial capabilities. Commercial arrangements with suppliers may not be able to be finalised until the commercial permit has been granted and the exact conditions of the proposed development have been confirmed.

We therefore recommend amending clause 29 to provide some flexibility to applicants. We recommend doing so by allowing the Minister to also approve an application if an applicant:

- is highly likely to have the relevant technical and financial capabilities (clause 29(1)(b))
- will be ready within a reasonable time to carry out the proposed development plan (clause 29(1)(c)).

Competing ORE applications

During a permit application round, there may well be situations where two or more ORE applications are received that cannot all be granted (for example, permit areas may be overlapping). Clause 20 sets out how the Minister would determine competing applications, should they occur. We recommend several amendments to clarify this process. They include making clear that the Minister, in relation to competing ORE permits, may:

- invite any applicants whose proposed permit areas relate to the same area to revise their application “to the extent needed to resolve the competition for the same permit area”
- grant one or more permits, over any others, on the basis of merit and suitability
- reject one or more applications.

Determinations of merit and suitability would be based on any considerations, rankings, priorities, or weightings stated in the terms of the application round.

“Use-it-or-lose-it” permit provisions

We understand that the intent of the bill, and the permitting regime, is that permit holders actively use their permits, rather than holding onto them without progressing development. To reflect this, the bill contains “use-it-or-lose-it” provisions, under which permit holders would have to abide by these provisions or have their permit revoked by the Minister. We consider that amendments could be made to strengthen these provisions, provide more certainty about how they would work in practice, and ensure that permit holders use their permits. We recommend:

- inserting new paragraph (cc) into clause 16 to require applicants to specify the ORE activities they intend to undertake in the first 12 months
- inserting paragraph (da) into clause 21, to specify that ORE feasibility activities must commence within 12 months of the start date specified by the feasibility permit (which could be later than the date the permit is granted)
- inserting paragraph (a) into clause 22 to require permit holders to report annually on the feasibility activities they have undertaken that year
- removing clause 53(b), so that permits can no longer be revoked if the permit holder had failed to begin ORE feasibility activities within 12 months of the permit start date (noting that permits can still be revoked under clause 53(a) if permit conditions, such as those set out in 16(cc), are not complied with)

- inserting new clause 33(a) to require feasibility permit holders to report annually to the ministry's chief executive on the ORE feasibility activities conducted during that year.

We note that the Australian regime does not prescribe timeframes within which activities must be undertaken, though the OEI Act does empower the Minister to set conditions through the declaration of an area or when granting a licence. General conditions that apply to licence holders are also provided for in the Act. We consider the use-it-or-lose-it provisions in the bill and our proposed amendments, though differing from the Australian model, are very important to ensure that developments are progressed, and that promising areas for ORE developments are used for that purpose.

Duration of commercial permits

In the bill as introduced, clause 31 provides that a commercial permit would last for 40 years from its start date. Clauses 36(3)(e) and 40 provide that the duration of a commercial permit may be extended, but that the total duration of a commercial permit could not exceed 80 years.

We heard from submitters that the 80-year cap on commercial permits is unnecessarily restrictive and could mean that permit holders may be forced to decommission productive ORE infrastructure while it is still functioning. We agree.

We do, however, consider that any extensions to permits must only be granted if the criteria for granting a permit application continue to be met. We therefore recommend amending clauses 36(e) and 40 to remove the requirement that permits not exceed 80 years in total, and insert a requirement that each extension to a permit not exceed 40 years. This would mean that permits would be reassessed before any permit extension was granted.

We also heard from some submitters who said that some commercial permits for ORE infrastructure with limited lifespans would not need the full 40 years. We recommend inserting clause 31(3), which would allow the Minister to grant an applicant a commercial permit with a duration of less than 40 years, if so requested.

Iwi consultation requirements when varying terms of permit

In the bill as introduced, permit applicants would be required to consult with relevant iwi authorities, hapū, and Treaty settlement entities that are likely to be affected by any potential ORE development in a given area. Applicants must provide a record of this consultation in their permit applications. This is noted in clause 14 for feasibility permit applications, and clause 24 for commercial permit applications.

We consider that this same consultation requirement should apply if any terms of the permit are varied, if the variation is likely to significantly impact Māori groups. Variations to the permit could include extension of the area or duration, or the transfer of permit. We recommend amending clause 38 to set out that if the Minister has reasonable cause to believe that a decision to vary the terms of the permit is likely to significantly affect relevant iwi authorities, hapū, or Treaty settlement entities, the Minister

must consult them. These groups are the same of those who must be consulted under clauses 14 and 24 when a permit is granted.

Financial security when transferring a permit

Under clause 42, a permit can, by prior approval of the Minister, be transferred to another holder. Clause 42(3)(c) provides that the Minister may approve a transfer for a commercial permit if they have determined an acceptable financial security arrangement for the transferee. The Minister must also be satisfied that the transferee is able to put that financial security arrangement in place before the transfer takes effect.

We recommend amending clause 42 to clarify that, in the event of a transfer, the financial security that must be put in place by the transferee must be equal to or greater than the amount secured by the outgoing person. We recommend inserting clause 42(3)(c)(iv) accordingly. We consider that there must be financial security to guarantee the cost of decommissioning.

Grounds for a permit to be revoked

Clause 53 as introduced sets out when and how a permit could be revoked. Reasons for revoking a permit include permit holders failing to comply with requirements set out in the primary or secondary legislation, or in the conditions and requirements of their permit. Another reason would be failing to begin ORE generation infrastructure activities within a reasonable time. We heard from some submitters that they considered the grounds for revocation, as outlined in clause 53, to be overly broad, potentially undermining commercial certainty. We recommend inserting new paragraphs (f) and (g) to provide more certainty about when a permit could be revoked. They would allow a permit to be revoked if:

- the permit holder or the permit itself poses a significant risk to national security and that risk cannot be avoided, mitigated, or managed
- the resource consent or marine consent relating to the ORE generation infrastructure activities under the permit is cancelled, revoked, surrendered, or expired.

We note that the first of these amendments does not specify threats to public order, as we consider that it might not be fair to the permit holder if their permit was revoked because of issues of public order outside their control (such as protest action). As part of this amendment, we recommend deleting the original paragraph (f), which provided the ability to revoke a permit if the holder “is no longer suitable to hold the permit for any other reason.”

Managing competing uses

Many submitters expressed concern that ORE developments could, and likely would, be incompatible with certain other uses of the marine environment, such as seabed mining operations. While ORE permits would mean that no other ORE activity could take place in the same area at the same time there is nothing in the bill that would

prevent consents being granted for other non-ORE uses, even after an ORE permit had been issued.

Several submitters emphasised that they considered that this would have a negative effect on prospective ORE investment. We agree. We understand that the estimated investment required for an ORE project is around \$5 billion. Feasibility studies are estimated to cost around \$200 million. Consequently, investors will need assurance that their investment, assuming all required permit conditions are met, cannot be undermined by a future permit or consent granted for an incompatible non-ORE activity. We consider this an important issue of investor confidence and property rights.

The bill as introduced partially recognises this, by requiring that there could not be more than one ORE project in the same area. However, the bill is silent on other non-ORE projects. There is no legal prevention in the bill against a non-ORE project being approved for the same or overlapping area even if there were a feasibility or commercial permit for ORE activities in the area.

The same would be true in reverse. If a permit is granted for mining activities in a given area and then a permit is granted for an ORE project within the same area, that would also have a chilling effect on investor confidence.

We note that Australia uses a “declared areas” model, where the Government identifies areas for offshore wind development and conducts consultation. Before designating a declared area, there must be consideration of existing uses and features of the marine environment. Licences for ORE developments can only be sought in those designated areas. Under the Offshore Electricity Infrastructure Regulations 2022, licence holders are also required to consult oil and gas titleholders in relation to proposed activities, to work through potential interactions.

We consider that for this bill to be effective in meeting its intended purpose of attracting ORE investment, it is necessary for these competing uses to be managed through changes to the legislation.

Consideration of possible amendments

We considered some small, but in this context very important, possible amendments to the Crown Minerals Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, and the Resource Management Act 1991 to require that activities under those Acts cannot be undertaken in areas where there is a live feasibility or commercial permit for ORE development, or at very least that issues of compatibility must be had regard to.

We explored amending the:

- Crown Minerals Act to insert new section 25(7A), stating that “the Minister must not grant a mining permit in respect of land in an offshore area (as defined in section 101A) if a current feasibility permit or commercial permit granted under the Offshore Renewable Energy Act 2024 applies to all or part of that area (despite anything to the contrary in this Act).”

- Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act to insert new section 62(1B), stating that “the marine consent authority must refuse an application for a marine consent for a mining activity that involves the taking or extraction of minerals from an area of the seabed if a current feasibility permit or commercial permit granted under the Offshore Renewable Energy Act 2024 applies to all or part of that area.”
- Resource Management Act to insert new section 87B(5), stating that “mining for Crown owned minerals in an area of the territorial sea must be treated as a prohibited activity if a current feasibility permit or commercial permit granted under the Offshore Renewable Energy Act 2024 applies to all or part of that area.”

Coalition members of the committee also consider that the bill could be amended so that any non-ORE activity conducted in an ORE permit area should be required to have consideration for that ORE activity, as an alternative to prohibition of that activity. A majority of us note that this would align with the Australian model.

We understand that these proposed amendments would be within the scope of the bill. While we all agree that this is an important issue which needs to be addressed, a majority of the committee considers that it would be best to allow Cabinet more time to discuss this matter and any precise wording it might wish to use to address it as the bill progresses through the House. The New Zealand Labour Party and the Green Party of Aotearoa New Zealand recommend inserting clauses to make the amendments to other Acts noted in the bullet points above.

Safety zones

Clauses 63 to 68 as introduced outline provisions around safety zones. These zones are intended to protect the safety of ships, people, and infrastructure by restricting entry to and specific activities within an area of up to 500 metres from any ORE generation infrastructure or substations. The Minister would be responsible for declaring safety zones.

Varying or cancelling a safety zone

Clause 68 as introduced did not specify the process to be undertaken to vary or cancel a safety zone notice. We recommend that the same consultation should be undertaken by the Minister and applicants as is required when establishing a safety zone, except when a permit holder wants to cancel a safety zone. In that instance, a permit holder would not have to consult before making a request to cancel a safety zone.

Persons who may be affected by a safety zone

Clause 64(4) sets out a non-exclusive list of the groups likely to be affected by a proposed safety zone, which should be consulted under clauses 64 (by the applicant) and 66 (by the Minister). One of these groups, outlined in subclause (4)(a), is anyone with an interest in a lawfully established existing activity, involving rights of access, navi-

gation, and fishing. Fishing operators and members of the freight and shipping industries are given as examples.

We consider that these examples should be removed, as they may imply that only commercial activities are considered lawfully established existing activities in the permit area. We understand that this is not the policy intent, and that people undertaking recreational activities are also intended to be included as people who may be affected. We recommend amending subclause (4)(a) accordingly.

Under clause 67, when determining whether to grant an application for a safety zone, the Minister must consider the nature of the ORE infrastructure activities, the size and layout of the ORE infrastructure, and the impact of the development on existing activities in the proposed safety zone area. We consider that this final point should be amended, as the impact of the development itself would be a matter for the consenting authority. We recommend amending clause 67(3) so that the Minister must consider the impact of the proposed safety zone on any persons who may be affected by it. This would entail an assessment of who the safety zone might affect, to help inform the decision on whether a safety zone is necessary. It would also create a greater awareness of how the safety zone would work in practice, and its impact on the community.

We also recommend amending the relevant phrase in clause 64(4) so that it instead reads as “persons who may be affected” by a safety zone, consistent with our previous amendment.

Interaction with the Submarine Cables and Pipelines Protection Act 1996

The Submarine Cables and Pipelines Protection Act 1996 (SCPP Act) would apply to all pipelines and cables that are laid in the territorial sea and exclusive economic zone, including those in connection with ORE infrastructure. Submitters said that undersea cables to the shoreline should also be protected through the safety zone, as relying entirely on the SCPP Act could cause issues. That Act does not require an assessment of the impacts on existing users, as outlined in the safety zone provisions in this bill.

We consider that the SCPP Act should apply to any submarine cables that are constructed as part of ORE transmission infrastructure. The safety zone provisions in the bill should apply only to the ORE generation infrastructure and substations. We recommend inserting clause 68A to clarify that the SCPP Act applies to ORE transmission infrastructure constructed under the bill’s regime, and that this bill does not affect that Act’s application.

Decommissioning obligations

Clauses 70 to 78 set out that commercial permit holders and people who own ORE transmission infrastructure (except Transpower) would have to carry out, and meet the costs of, decommissioning all ORE generation or transmission infrastructure that was constructed in relation to activities under their permit. We recommend some

amendments to these clauses to strengthen their functions and clarify certain obligations. These are explained below.

Trailing liability for decommissioning obligations

A person who holds a commercial permit has an obligation to decommission any ORE generation infrastructure that was constructed under the permit, under clause 70 of the bill. This obligation would continue even if the permit were transferred to a new permit holder, until released by the Minister. The Minister would have to release a previous permit holder from their decommissioning obligation when the financial security to cover decommissioning costs has reached 100 percent.

We recommend amending clause 70(2) to state that any person who has ceased to hold a commercial permit, or whose commercial permit has ceased to be current, continues to have a decommissioning obligation for all ORE generation infrastructure that was in place at the time they ceased to hold the permit. This would ensure that the trailing liability to decommission only applies to infrastructure that was already in place at that time.

Decommissioning proposals

Under clause 75 as introduced, a person with decommissioning obligations related to any ORE infrastructure must submit a decommissioning proposal to the Minister that sets out the proposed decommissioning activities, the process to be used, and the proposed schedule. We heard from submitters that provisions around decommissioning proposals could be made clearer.

We recommend inserting clause 75(1AAA) to clarify that the purpose of the information provided through decommissioning proposals is to ensure that the Minister has all the relevant information to inform the decommissioning cost estimate. We also recommend amending subclause (2) to specify that a decommissioning proposal must:

- be based on the total removal of ORE infrastructure, except where it can be shown that this is not best practice nor in line with requirements (set out in regulations or otherwise)
- describe the decommissioning options considered or available and the approach the permit holder expects to undertake.

We also recommend amending clause 76(2) to clarify that the decommissioning cost estimate included in the proposal must include estimates of the cost to the Crown if decommissioning were to be carried out according to the options described in the proposal, as well as according to the standards required in clause 73(3). Clause 73(3) provides that if no other requirements or standards are in place for a particular piece of ORE infrastructure, it must be decommissioned by totally removing it.

Amendments to other Acts

We recommend some amendments to other Acts to ensure that this bill interacts well with existing legislation.

We recommend inserting clauses 177A and 177B, which would amend section 5(1)(m) and (n) of the Fast-track Approvals Act 2024. These amendments would allow a feasibility or commercial permit holder to apply for a resource or marine consent under the Fast-track Approvals scheme for an ORE infrastructure activity. Permit holders would also be able to apply for a resource consent under the Fast-track Approvals Act or marine consent under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act, if they were to have a permit under this bill.

We also recommend inserting clauses 177C and 177D to amend section 12(5) of the Fire and Emergency New Zealand Act 2017. This amendment would expand the definition of offshore marine structure to include “ORE infrastructure”, which would allow Fire and Emergency New Zealand to respond to maritime incidents as part of New Zealand’s search and rescue region, should any incident occur on any ORE infrastructure.

We note that our possible amendments to manage competing uses, discussed earlier in this commentary, would also amend the Crown Minerals Act, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act, and the Resource Management Act.

Appendix

Committee process

The Offshore Renewable Energy Bill was referred to the committee on 17 December 2024.

We called for submissions on the bill with a closing date of 6 February 2025. We received and considered submissions from 71 interested groups and individuals. We heard oral evidence from 21 submitters at hearings in Wellington and via videoconference.

Advice on the bill was provided by the Ministry of Business, Innovation and Employment. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting. The Regulations Review Committee reported to us on the powers contained in clauses 167 and 168.

Committee membership

Andy Foster (Chairperson)

Dan Bidois (from 29 January 2025)

Dr Carlos Cheung (from 9 April 2025)

Hon Julie Anne Genter

Mariameno Kapa-Kingi

Cameron Luxton

Hon Kieran McAnulty (from 12 March 2025 to 14 May 2025)

Grant McCallum (until 29 January 2025)

Dr Tracey McLellan (from 14 May 2025)

Tom Rutherford (until 29 January 2025)

Stuart Smith (from 29 January to 9 April 2025)

Tangi Utikere

Arena Williams (until 12 March 2025)

Scott Willis and Hon Dr Megan Woods participated in our consideration of this bill.

Related resources

The documents we received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Simon Watts

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Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Offshore Renewable Energy Act **2024**.

2 Commencement

This Act comes into force on the day after Royal assent.

5

Part 1

Preliminary provisions

3 Purpose

The purpose of this Act is to—

- (a) give greater certainty for developers to invest in ORE developments; and 10
- (b) allow the selection of ORE developments that best meet New Zealand's national interests; and
- (c) manage the risks to the Crown and the public from ORE developments.

4 Interpretation

In this Act, unless the context otherwise requires,—

15

acceptable financial security arrangement means a financial security arrangement that the Minister is satisfied operates in an acceptable way, and

provides an acceptable level of security to the Crown, in accordance with **subpart 3 of Part 3**

application round means an application round for feasibility permits of which public notice has been given under **subpart 2 of Part 2**

cable has the meaning set out in section 2 of the Submarine Cables and Pipelines Protection Act 1996 5

change in significant influence has the meaning set out in **section 44**

chief executive means the chief executive of the Ministry

commercial permit means a permit granted under **subpart 3 of Part 2**

compliance notice means a notice issued under **section 128(2)** 10

compliance period means the period stated in the compliance notice under **section 129**

consent authority has the meaning set out in section 2(1) of the Resource Management Act 1991

current, in relation to a permit and a permit area or a part of a permit area, means that the permit applies to that area or part and has not expired, or been surrendered or revoked, in respect of that area or part, as the case may be 15

customary marine title area means a customary marine title area as defined in—

(a) section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or 20

(b) section 9 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

customary marine title group means—

(a) a customary marine title group as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or 25

(b) a customary marine title hapū as defined in section 9 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

decommissioning has the meaning set out in **section 73** and **decommission** has a corresponding meaning

decommissioning obligation means the obligation in **subpart 2 of Part 3** to carry out, and meet the costs of, decommissioning any infrastructure 30

decommissioning proposal means a proposal that complies with **subpart 2 of Part 3**

development plan means a programme of work—

(a) that, in the case of a permit application, is proposed to be undertaken by the applicant for the permit; and 35

(b) that, in the case of a permit, is required to be undertaken by the permit holder in accordance with the permit

end date or **permit end date** means the last day on which a permit is current

enforcement officer means an officer appointed by the chief executive under **section 101** who may perform or exercise the functions, duties, and powers of an enforcement officer as set out in **subpart 1 of Part 4**

evidential material has the meaning set out in section 3(1) of the Search and Surveillance Act 2012 5

excluded infrastructure means any infrastructure, structure, or installation described in **paragraph (a)** of the definition of ORE generation infrastructure if—

(a) it has, or is proposed to have, a total generating capacity of no more than 30MW (or another amount prescribed by the regulations for this purpose) and— 10

(i) its sole or primary purpose is not, or is not intended to be, deriving commercial gain from the energy generated; or

(ii) it is used, or intended to be used, for 1 or more of the following activities: 15

(A) facilitating research and development;

(B) demonstrating the energy generation potential of ORE technology;

(C) another activity prescribed by the regulations for the purpose of this definition; or 20

(b) it is prescribed by the regulations as excluded infrastructure

exclusive economic zone means New Zealand's exclusive economic zone as defined in section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 25

feasibility permit means a permit granted under **subpart 2 of Part 2**

financial security arrangement means 1 or more financial securities that secure the performance of a person's decommissioning obligation and may—

(a) include financial securities of the same kind or different kinds:

(b) relate to 1 or more permits: 30

(c) be held by the permit holder or other persons:

(d) include any other matters relating to the securities that comprise the arrangement or how the arrangement must operate

financial security obligation means the obligation to provide security to the Crown in **subpart 3 of Part 3** 35

foreign ship has the meaning set out in section 2(1) of the Maritime Transport Act 1994

issuing officer has the meaning set out in section 3(1) of the Search and Surveillance Act 2012

marine consent has the meaning set out in section 4(1) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

marine consent authority has the meaning set out in section 4(1) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

5

master has the meaning set out in section 2(1) of the Maritime Transport Act 1994

minimum eligibility criteria,—

(a) ~~in respect of a feasibility permit, means the eligibility criteria in **section 15**; and~~

10

(b) ~~in respect of a commercial permit, means the eligibility criteria in **section 25**~~

~~**official geodetic datum** means the New Zealand Geodetic Datum 2000 (NZGD2000) as defined in LINZS25000: Standard for New Zealand Geodetic Datum 2000~~

15

ORE means offshore renewable energy

ORE development or development—

(a) means—

(i) the ORE generation infrastructure that is, or is proposed to be, constructed, installed, operated, maintained, or decommissioned under a permit; and

20

(ii) the ORE generation infrastructure activities that are, or are proposed to be, carried out under a permit in the permit area by or on behalf of the permit holder; and

(b) includes the ORE transmission infrastructure that is connected to that ORE generation infrastructure and the related ORE transmission infrastructure activities

25

ORE feasibility activities means activities that are for the purpose of assessing the feasibility of ORE infrastructure activities

ORE generation infrastructure—

30

(a) means any infrastructure, structure, or installation— that is built or used (or is proposed to be built or used) in the territorial sea or exclusive economic zone for the purpose of generating energy from a renewable energy resource in that sea or zone; but

(i) ~~that is built or used (or is proposed to be built or used) in the territorial sea or exclusive economic zone for the purpose of generating energy from a renewable energy resource in that sea or zone; and~~

35

- (ii) ~~that is (or is proposed to be) for commercial use (in accordance with a meaning of commercial use prescribed in the regulations (if any)); but~~
- (b) ~~does not include ORE transmission infrastructure—~~
 - (i) ORE transmission infrastructure; or 5
 - (ii) any excluded infrastructure
- ORE generation infrastructure activities—**
- (a) means—
 - (i) the construction, installation, operation, maintenance, or decommissioning of ORE generation infrastructure; and 10
 - (ii) all related or supporting activities related to those activities; but
- (b) does not include ORE transmission infrastructure activities or ORE feasibility activities
- ORE infrastructure** means ORE generation infrastructure and ORE transmission infrastructure 15
- ORE infrastructure activities** means ORE generation infrastructure activities and ORE transmission infrastructure activities
- ORE substation** means a structure connected to ORE generation infrastructure that is built or used (or is proposed to be built or used) for the purpose of storing, transmitting, transforming, or conveying energy from or through the territorial sea or exclusive economic zone 20
- ORE transmission infrastructure—**
- (a) means any infrastructure, structure, or installation (including a cable, pipeline, or ORE substation) that—
 - (i) is built or used (or is proposed to be built or used) for the purpose of storing, transmitting, transforming, or conveying energy from or ~~though~~ through the territorial sea or exclusive economic zone; and 25
 - (ii) ~~is (or is proposed to be) for commercial use (in accordance with a meaning of commercial use prescribed in the regulations (if any)); and~~ 30
 - (iii) is (or is proposed to be) connected to ORE generation infrastructure; but
- (b) does not include—
 - (i) ORE generation infrastructure; and 35
 - (ii) electricity lines services within the meaning of section 54C(1) of the Commerce Act 1986

ORE transmission infrastructure activities means the construction, installation, operation, maintenance, or decommissioning of ORE transmission infrastructure

owner, in relation to ORE transmission infrastructure, means the person or persons who own that infrastructure (which must be determined in accordance with the regulations (if any)) 5

pecuniary penalty means a penalty—~~imposed under~~ described in **section 158(3)**

pecuniary penalty order means an order made under **section 158**

permit means a feasibility permit or a commercial permit, as the case may be 10

permit application means an application for a feasibility permit or a commercial permit, as the case may be

permit area means the area of the exclusive economic zone or the territorial sea (or both) to which a permit application or a permit applies

permit holder means the holder of a feasibility permit or a commercial permit, as the case may be 15

person who has a decommissioning obligation, in respect of any ORE infrastructure, means a person required by **section 70 or 71** to carry out, and meet the costs of, the decommissioning of that infrastructure

pipeline has the meaning set out in section 2 of the Submarine Cables and Pipelines Protection Act 1996 20

post-settlement governance entity—

- (a) means a body corporate or the trustees of a trust established, for the purpose of receiving redress in the Treaty settlement of a claimant group,—
 - (i) by that group; or 25
 - (ii) by or under an enactment or order of a court; and
- (b) includes—
 - (i) an entity established to represent a collective or combination of claimant groups; and
 - (ii) an entity controlled by an entity referred to in **paragraph (a)**; 30 and
 - (iii) an entity controlled by a hapū to which redress has been transferred by an entity referred to in **paragraph (a)**

protected customary rights area means—

- (a) a protected customary rights area as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or 35
- (b) an area in which a protected customary activity, as defined in section 9 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, is recognised under that Act

protected customary rights group means—

- (a) a protected customary rights group as defined in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011; or
- (b) a protected customary activity hapū as defined in section 9 of the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

5

register means the register of permits maintained under **section 113**

regulations means regulations made under this Act

renewable energy resource means any one of the following resources from which energy may be obtained:

- (a) wind: 10
- (b) waves:
- (c) tides:
- (d) ocean currents:
- (e) light or heat from the sun:
- (f) rain: 15
- (g) geothermal heat:
- (h) a renewable resource prescribed by the regulations

resource consent has the meaning set out in section 87 of the Resource Management Act 1991 and includes all conditions to which the consent is subject under that Act

20

safety zone means an area declared as a safety zone by the Minister in accordance with **section 63**

safety zone officer means a person specified in **section 109** who may exercise the powers of a safety zone officer as set out in **section 110**

ship has the meaning set out in section 2(1) of the Maritime Transport Act 1994 25

start date or **permit start date** means the first day on which a permit is current

terms of the application round means the terms of a feasibility permit application round that are—

30

- (a) prescribed by the regulations (if any); or
- (b) set out in the public notice under **section 13**; or
- (c) set out in information issued by the Minister (if any) under **section 13**

territorial sea means the territorial sea of New Zealand as defined in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 35

Treaty settlement means—

- (a) a Treaty settlement Act; or
- (b) a Treaty settlement deed

Treaty settlement Act means—

- (a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; or 5
- (b) any other Act that provides redress for Treaty of Waitangi claims, including Acts that provide collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act, including—
 - (i) the Maori Commercial Aquaculture Claims Settlement Act 2004: 10
 - (ii) the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:
 - (iii) the Nga Wai o Maniapoto (Waipa River) Act 2012:
 - (iv) the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010: 15
 - (v) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and secondary legislation that gives effect to section 10 of that Act

Treaty settlement deed—

- (a) means a deed or other agreement that—
 - (i) has been signed by or on behalf of a Minister of the Crown and representatives of a group of Māori; and 20
 - (ii) is in settlement of the claims of that group or in express anticipation, or on account, of that settlement; and
- (b) to avoid doubt, includes a deed or other agreement of the kind described in **paragraph (a)** that relates to the claims of a collective or combination of Māori groups; but 25
- (c) does not include an agreement in principle or any document that is preliminary to a signed and ratified deed

Treaty settlement entity means any of the following:

- (a) a post-settlement governance entity: 30
- (b) a board, trust, committee, authority, or other body, incorporated or unincorporated, that is recognised in or established under any Treaty settlement Act:
- (c) an entity or a person that is authorised by a Treaty settlement Act to act for a natural feature with legal personhood: 35
- (d) Te Ohu Kai Moana or a mandated iwi organisation (as those terms are defined in section 5(1) of the Maori Fisheries Act 2004):

- (e) an iwi aquaculture organisation (as defined in section 4 of the Maori Commercial Aquaculture Claims Settlement Act 2004).

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions ~~(if any)~~ set out in **Schedule 1** have effect according to their terms.

5

6 Obligation relating to Treaty settlements and recognised customary rights

- (1) All persons performing and exercising functions, duties, and powers under this Act must act in a manner that is consistent with—

(a) the obligations arising under existing Treaty settlements; and

(b) customary rights recognised under—

10

(i) the Marine and Coastal Area (Takutai Moana) Act 2011:

(ii) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

- (2) To avoid doubt, **subsection (1)** does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.

- (3) In this section, **existing Treaty settlements** means Treaty settlements that exist at the time the relevant function, duty, or power is performed or exercised (rather than only those that exist at the commencement of this Act).

15

7 Act binds the Crown

This Act binds the Crown.

8 Area of application

20

This Act applies to ORE developments in—

(a) the territorial sea; and

(b) the exclusive economic zone.

9 Describing geodetic position

For the purposes of this Act, a permit area, safety zone, or other relevant point, line, or area must be described—

25

(a) using ~~geographical co-ordinates in accordance with the official geodetic datum; or for the time being approved by the Surveyor-General; and~~

(b) in accordance with any requirements prescribed by the regulations.

Part 2

Regime for offshore renewable energy permits and infrastructure protection

Subpart 1—Preliminary provisions

10	Outline of this Part	5
(1)	Subparts 2 and 3 provide for the granting of feasibility permits and commercial permits in respect of ORE developments.	
(2)	Subpart 4 provides for various matters relating to those permits.	
(3)	Subpart 5 provides a system to enable the protection of ORE infrastructure in those developments.	10
(4)	This Part does not limit requirements under other Acts (including under the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, or a Treaty settlement Act).	
11	Purpose of feasibility permits and commercial permits	
(1)	The purpose of a feasibility permit is to provide for the permit holder to—	15
(a)	assess the feasibility of an ORE development that the permit holder proposes to carry out in the permit area; and	
(b)	have an exclusive ability to apply for a commercial permit in relation to that proposed development in the permit area if the permit holder chooses to do so.	20
	Guidance note	
	A person must have a feasibility permit before they can apply for—	
	• a resource consent for ORE generation infrastructure activities (see section 88AA of the Resource Management Act 1991):	
	• a marine consent for ORE generation infrastructure activities (see section 38A of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012):	25
	• a commercial permit (see section 25(b) 26(aaa)).	
(2)	The purpose of a commercial permit is to enable the permit holder to give effect to a resource consent or marine consent that authorises ORE generation infrastructure activities.	30
12	Prohibition on undertaking ORE generation infrastructure activities unless person is holder of commercial permit	
(1)	A person must not give effect to a resource consent or marine consent by undertaking any ORE generation infrastructure activities in respect of a pro-	35

posed ORE development unless they are a commercial permit holder in respect of the development.

Guidance note

See **section 144**, which provides that a person who is not a commercial permit holder commits an offence against this Act if they contravene this section. 5

See also **section 38B** of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 and **section 88AB** of the Resource Management Act 1991, which provide that consents are automatically cancelled if the commercial permit expires or is revoked or surrendered in full.

See also **section 4** for the definition of excluded infrastructure. 10

- (2) However, a person does not contravene this section by decommissioning ORE generation infrastructure without a commercial permit.

Subpart 2—Feasibility permits

13 Application round for feasibility permits

- (1) An application for a feasibility permit may be made only during an application round. 15
- (2) The Minister may launch an application round by giving public notice that specifies—
- (a) the geographic area or areas in respect of which applications are invited (which may be in the territorial sea and the exclusive economic zone around the whole of New Zealand); and 20
 - (aa) the date and time by which applications must be received; and
 - (b) if applicable, any limitations to which applications are subject (for example, as to the type of technology and generation capacity).
- (2A) The regulations may prescribe matters that apply to the launching of an application round (for example, criteria, guiding principles, and consultation requirements). 25
- (3) ~~The public notice, or any guidance issued by the Minister,~~ The regulations, the public notice, or any information issued by the Minister to support the application round may specify any terms of the application round, including— 30
- (a) how applications may be made:
 - (b) how public notice will be given, and consultation will be carried out, under **section 17**:
 - (c) how applications will be considered under **sections 18 to 20**;
 - (d) any mandatory conditions for feasibility permits (see **section 23**). 35
- (4) The public notice must specify any matters prescribed by the regulations and must be given in accordance with any requirements under the regulations.

- (5) The Minister may amend or revoke the notice, or any ~~guidance~~ information issued by the Minister to support the application round, before the time by which applications must be received expires.

14 Pre-application consultation requirements for feasibility permit applications

5

The person who intends to make an application for a feasibility permit must consult the following groups before making the application:

- (a) any relevant iwi authorities, hapū, and Treaty settlement entities, including—
 - (i) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements; and 10
 - (ii) the tangata whenua of any area within the permit area that is a taiāpure-local fishery, a mātaimai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996; and 15
 - (b) any relevant protected customary rights groups, customary marine title groups, and applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011; and
 - (c) ngā hapū o Ngāti Porou, if the permit area is within or adjacent to, or the development would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou. 20
- (2) ~~An applicant must include in their application a record of the consultation and a statement explaining how it has informed the proposed development.~~

15 Minimum eligibility criteria for applicants for feasibility permits

~~A person is eligible to apply to the Minister for a feasibility permit during an application round if—~~ 25

- (a) ~~the person has undertaken the consultation required by~~ **section 14** ~~(which relates to consultation with Māori groups); and~~
- (b) ~~the person is a single entity that is either a body corporate that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993; and~~ 30
- (c) ~~the person is not an applicant for another permit for the same type of technology in respect of the same region (where **region** has the same meaning as in section 2(1) of the Local Government Act 1974 and includes the adjacent area of the exclusive economic zone).~~ 35

Guidance note

~~See **section 121** (which relates to rejection of non-complying applications).~~

16 Requirements for applications for feasibility permits

Every application for a feasibility permit must—

- (a) be in respect of a permit area—
 - (i) that is wholly within the geographic area to which the application round applies; and 5
 - (ii) that is a reasonable size for the proposed ORE generation infrastructure; and
- (b) contain, or be accompanied by, the information required by the terms of the application round ~~as specified in section 13(3)~~; and
- (c) include a development plan, which must contain the relevant information prescribed ~~in~~ by the regulations to enable the application to be considered and measurable permit conditions to be applied; and 10
- (ca) include a record of the consultation under **section 14** and a statement explaining how it has informed the proposed development; and
- (cb) be made by an applicant that is a single entity that is either a body corporate that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993; and 15
- (cc) specify the ORE feasibility activities that the applicant intends to commence within 12 months of the permit's start date; and
- (d) otherwise be made in the manner prescribed by the regulations. 20

17 Minister's process before feasibility permits can be granted

Before ~~granting any determining an~~ application for a feasibility permit in an application round, the Minister must—

- (a) give public notice of a summary of the proposed developments being considered, including the permit areas to which those applications relate; and 25
- (b) allow any person who wishes to make a submission about a proposed development a reasonable opportunity to do so; and
- (c) consult the persons referred to in **section 14** (which relates to consultation with Māori groups). 30

18 Determining applications for feasibility permits

(1) The Minister may—

- (a) grant an application for a feasibility permit, in whole or in part, and issue a permit; or
 - (b) reject the application. 35
- (1A) The Minister must not grant a permit for a permit area that is already covered by another permit.

- (2) The Minister may reject an application if the Minister considers that ~~the grant of granting~~ a permit would or could pose a significant risk to national security or public order and that risk cannot be adequately avoided, mitigated, or managed.
- (3) This section does not limit the grounds on which the Minister may reject an application. 5
- (4) This section is subject to **sections 17 and 19**.
- (5) The Minister must determine an application in the manner, and within any time frames, specified in the terms of the application round.
- (6) The Minister must give public notice that the Minister has granted or rejected an application. 10

19 Mandatory considerations for granting application for feasibility permits

- (1) The Minister may grant an application for a feasibility permit if the Minister is satisfied that—
- Development requirements* 15
- (a) the proposed development is likely to deliver benefits for New Zealand; and
- (b) ~~no other feasibility permit or commercial permit is current in respect of the proposed permit area; and~~
- (c) the proposed development plan is consistent with the purpose of the proposed permit, the purpose of this Act, and good industry practice in respect of the proposed ORE generation activities and ORE feasibility activities; and 20
- Permit holder suitability requirements*
- (d) the applicant has, or is likely to have, the technical and financial capability to install, operate, maintain, and decommission the proposed ORE generation infrastructure; and 25
- (e) the applicant is highly likely to comply, on an ongoing basis, with the requirements under this Act and the regulations.
- (2) In determining an application, the Minister must have regard to the following additional considerations: 30
- (a) ~~whether the applicant poses any significant risks to national security or public order; and~~
- (b) ~~the applicant's compliance record in New Zealand and internationally; and~~ 35
- (a) the compliance record (including the environmental track record) in New Zealand and internationally of the applicant and of any related parties (within the meaning of that term specified in the regulations); and

- (c) the applicant's consultation with the persons referred to in **section 14** (which relates to consultation with Māori groups); and
 - (d) the impact of granting the permit on Treaty settlements, protected customary rights areas, and any other Māori groups with relevant interests; and 5
 - (e) the applicant's approach to ~~identifying, engaging with, and managing existing rights and interests in the proposed permit area; and—~~
 - (i) identifying and engaging with the holders of existing rights and interests in the proposed permit area, to the extent that they are reasonably able to do so; and 10
 - (ii) identifying and addressing existing rights and interests in the proposed permit area, to the extent that they are reasonably able to do so; and
 - (f) any submissions made in relation to the application; and
 - (g) any other considerations that are prescribed by the regulations or specified in the terms of the application round. 15
- (3) Before granting an application for a feasibility permit, the Minister must also have regard to whether the applicant poses, or granting the permit could pose, any significant risk to national security or public order and whether that risk can be adequately avoided, mitigated, or managed. 20

20 Position if 2 or more competing applications

- (1AAA) This section applies if there are 2 or more applications in an application round in respect of which the Minister may grant a feasibility permit but they cannot both or all be granted (for example, because the proposed permit areas overlap) (**competing applications**). 25
- (1) ~~If there are competing applications in an application round in respect of which the Minister may grant a feasibility permit, the Minister may do either or both of the following~~The Minister may do all or any of the following in respect of the competing applications:
- (aaa) if they relate to the same permit area, invite all or any of the applicants to revise their application to the extent needed to resolve the competition for the same permit area (subject to **section 16(a)**): 30
 - (a) grant 1 or more permits on the basis of which applications have the most merit, and which applicants are most suitable to hold a permit, ~~determined in accordance with—~~ 35
 - (i) the considerations that are set out in the terms of the application round; and
 - (ii) any ranking, priorities, and weightings of those considerations that may be set out in the terms of the application round:
 - (b) reject 1 or more applications. 40

- (b) ~~if there are 2 or more applications in an application round that relate to the same permit area, invite any of the applicants to revise their application to the extent needed to resolve the competition for the same permit area (subject to **section 16(a)**).~~
- (2) ~~The Minister must determine an application—~~ 5
- (a) ~~in accordance with the ranking, priorities, or weighting of factors that are contained in the regulations or the terms of the application round as specified under **section 13(3)**; and~~
- (b) ~~in the manner, and within any time frame, prescribed by the regulations or those terms.~~ 10
- (1A) The Minister must determine competing applications in the manner, and within any time frames, specified in the terms of the application round.
- (2) **Section 18** applies to revised applications, with any necessary modifications.
- 21 What feasibility permits must specify**
- A feasibility permit must specify all of the following: 15
- (a) the name of the permit holder:
- (aa) the renewable energy resource proposed to be used under a commercial permit, if granted:
- (b) the proposed amount of power to be generated under a commercial permit, if granted: 20
- (c) the permit area:
- (d) the start date and end date of the permit:
- (da) the ORE feasibility activities that must be commenced within 12 months of the permit's start date (see **section 16(cc)**):
- (e) the conditions of the permit: 25
- (f) any other matters prescribed by the regulations.
- 22 Duration of feasibility permits**
- (1) A feasibility permit has a duration of 7 years starting on the start date.
- (2) However,—
- (a) see **section 39** for the power of the Minister to extend the duration of a feasibility permit; and 30
- (b) a feasibility permit that is the subject of an application for a commercial permit continues in force until the Minister determines the application; and
- (c) if a commercial permit is granted in relation to a feasibility permit, then 35
- the feasibility permit ends and the start date of the commercial permit is the day after the end date of the feasibility permit on the close of the day immediately before the start date of the commercial permit.

23 ~~Minister may impose conditions~~ Conditions of feasibility permits imposed by Minister

- (1) The Minister must impose any conditions of a feasibility permit that are specified as mandatory conditions in the terms of the application round.
- (2) The Minister may impose any other conditions of a feasibility permit that the Minister considers are appropriate to give effect to the purpose of this Act or to enable effective administration of ~~this Act~~ the permitting regime. 5

Subpart 3—Commercial permits

24 Pre-application consultation requirements for commercial permit applications 10

- (1) The person who intends to make an application for a commercial permit must consult the following groups before making the application:
- (a) any relevant iwi authorities, hapū, and Treaty settlement entities, including—
- (i) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements; and 15
- (ii) the tangata whenua of any area within the permit area that is a taiāpure-local fishery, a mātaimai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996; and 20
- (b) any relevant protected customary rights groups, customary marine title groups, and applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011; and
- (c) ngā hapū o Ngāti Porou, if the permit area is within or adjacent to, or the development would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou. 25
- (2) ~~An applicant must include in their application a record of the consultation and a statement explaining how it has informed the proposed development.~~
- (2) The consultation under **subsection (1)(a)** must be separate from, and in addition to, the consultation carried out under **section 14**. 30

24A Pre-application consultation with Transpower New Zealand Limited and Electricity Authority

The person who intends to make an application for a commercial permit must consult the State enterprise known as Transpower New Zealand Limited and the Crown entity known as the Electricity Authority before making the application. 35

25 ~~Minimum eligibility criteria for applicants for commercial permits~~

~~A person is eligible to apply to the Minister for a commercial permit if—~~

- (a) ~~the person has undertaken consultation as required by **section 24** (which relates to consultation with Māori groups); and~~
- (b) ~~the person is the permit holder of a current feasibility permit that applies in respect of the whole permit area for which the commercial permit application is made.~~

5

Guidance note

~~See **section 121** (which relates to rejection of non-complying applications).~~

26 Requirements for applications for commercial permits

Every application for a commercial permit must—

- (aaa) be made by a person who is the permit holder of a current feasibility permit that applies in respect of the whole permit area for which the commercial permit application is made; and 10
- (a) be in respect of a permit area that is a reasonable size for the proposed development; and
- (b) include a development plan, which must contain the relevant information prescribed ~~in~~ by the regulations to enable the application to be considered and measurable permit conditions to be applied; and 15
- (ba) include a record of the consultation under **sections 24 and 24A** and a statement explaining how it has informed the proposed development; and 20
- (c) include a decommissioning proposal and a decommissioning cost estimate in respect of the ORE generation infrastructure that will be attributable to ORE generation infrastructure activities under the permit (*see **subpart 2 of Part 3***); and
- (d) include proposals for a financial security arrangement (*see **subpart 3 of Part 3***); and 25
- (e) contain, or be accompanied by, any information prescribed by the regulations; and
- (f) otherwise be made in the manner prescribed by the regulations.

27 Minister's process before commercial permits can be granted

30

~~After accepting~~ Before determining an application for a commercial permit, the Minister must—

- (a) consult the persons referred to in **section 24** (which relates to consultation with Māori groups); and
 - (b) ~~give public notice of the application~~ of an application that meets the requirements of **section 26**. 35
- (2) ~~The Minister may, but need not otherwise, consult before granting a commercial permit.~~

28 Determining applications for commercial permits

- (1) The Minister may—
- (a) grant an application for a commercial permit, in whole or in part, and issue a permit; or
 - (b) reject the application. 5
- (2) The Minister may reject an application if the Minister considers that ~~the grant of granting~~ a permit would or could pose a significant risk to national security or public order and that risk cannot be adequately avoided, mitigated, or managed.
- (3) This section does not limit the grounds on which the Minister may reject an application. 10
- (4) This section is subject to **section 27** and **29**.
- (5) The Minister must determine an application in the manner, and within any time frames, prescribed by the regulations.
- (6) The Minister must give public notice that the Minister has granted or rejected an application. 15

29 Mandatory considerations for granting application for commercial permit

- (1) The Minister may grant an application for a commercial permit if the Minister is satisfied that—
- Development requirements* 20
- (a) the proposed development plan is consistent with the purpose of the proposed permit, the purpose of this Act, and good industry practice in respect of the proposed ORE generation infrastructure activities; and
- Permit holder suitability considerations*
- (b) the applicant has, or is highly likely to have, the technical and financial capability to install, operate, maintain, and decommission the proposed ORE generation infrastructure; and
 - (c) the applicant is ready, or will be ready within a reasonable time, to carry out the proposed development plan; and
 - (d) ~~the applicant has complied with the requirements under this Act and the regulations and the conditions of their feasibility permit; and~~ 30
 - (e) the applicant is highly likely to comply, on an ongoing basis, with—
 - (i) their decommissioning obligation and financial security obligation; and
 - (ii) the other requirements under this Act and the regulations; and 35
 - (f) the applicant has, or will be able to, put in place an acceptable financial security arrangement that complies with **subpart 3 of Part 3**.

- (2) In determining an application, the Minister must have regard to the following additional considerations:

Development requirements

- (a) whether there are changes to the proposed development that are material to the benefits that were assessed as part of the applicant's feasibility permit application; and 5

Permit holder suitability considerations

- (aa) whether the applicant has complied with the requirements under this Act and the regulations and the conditions of their feasibility permit; and

- (b) ~~whether the applicant poses any significant risks to national security or public order; and~~ 10

Other considerations

- (c) the applicant's consultation with the persons referred to in **section 24** (which relates to consultation with Māori groups); and

- (d) the impact of granting the permit on Treaty settlements, protected customary rights areas, and any other Māori groups with relevant interests; and 15

- (e) any other considerations that are prescribed by the regulations.

- (3) Before granting an application for a commercial permit, the Minister must also have regard to whether the applicant poses, or granting the permit could pose, any significant risk to national security or public order and whether that risk can be adequately avoided, mitigated, or managed. 20

30 What commercial permits must specify

A commercial permit must specify all of the following:

- (a) the name of the permit holder: 25
- (b) the proposed development to which the permit applies (including the renewable energy resource proposed to be used and the proposed amount of power to be generated):
- (c) the permit area:
- (d) the start date and end date of the permit: 30
- (e) the conditions of the permit:
- (f) any other matters prescribed by the regulations.

31 Duration of commercial permits

- (1) A commercial permit has a duration of 40 years starting on the start date.
- (2) However, *see* **section 40** for the power of the Minister to extend the duration of a commercial permit. 35

- (3) Also, the applicant may apply for a commercial permit of shorter duration, in which case the Minister may issue a commercial permit with a duration of less than 40 years.

32 Minister may impose conditions of commercial permits

The Minister may impose any conditions of a commercial permit that the Minister considers are appropriate to give effect to the purpose of this Act or enable the effective administration of ~~this Act~~ the permitting regime.

Subpart 4—Provisions relating to both feasibility permits and commercial permits

Requirements of permit holders

33 Requirements of permit holders

Every permit holder, whether or not it is stated in their permit, must—

Feasibility permits

- (a) ~~commence ORE feasibility activities within 12 months of the permit's start date; and~~
- (a) report annually to the chief executive on the ORE feasibility activities conducted during that year; and
- (b) disclose the data that is obtained from their ORE feasibility activities to the chief executive by the end date of their feasibility permit or any later date determined by the Minister; and

Commercial permits

- (c) inform the chief executive within 30 working days of entering into any contract with another person to build or operate any ORE transmission infrastructure or to transfer ownership of any ORE transmission infrastructure, including details about the proposed transfer, transferee, and any other information related to the transfer that the chief executive may require; and
- (d) not transfer ownership of any ORE transmission infrastructure ~~otherwise other~~ than to a single entity that is either a body corporate that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993; and

All permits

- (e) ~~comply with any milestones in the applicable development plan, unless compliance should reasonably be excused; and~~
- (e) at all times comply with the conditions of their permit, unless their compliance should reasonably be excused; and
- (f) pay any fees or levies prescribed by the regulations; and

- (g) provide reports or any information requested by the Minister, the chief executive, or an enforcement officer; and
- (h) provide to the chief executive a copy of any application for a marine consent or a resource consent for ORE infrastructure activities in respect of the development, as soon as is reasonably practicable after lodging the application. 5

34 ~~Permit holder must comply with permit conditions~~

~~A permit holder must at all times comply with the conditions of their permit.~~

Other legislative requirements unaffected

35 ~~Minister's assessment has no bearing on other legislative requirements~~ 10

~~To avoid doubt, the Minister's determination on a permit application under **subpart 2 or 3** does not limit or have any effect on—~~

- (a) ~~whether the applicant is required to obtain any permit, consent, or other permission under any other legislation:~~
- (b) ~~the granting to the applicant of any permit, consent, or other permission necessary under any other legislation by any government agency, consent authority, or Minister responsible for the administration of that legislation.~~ 15

Compare: 1991 No 70 s 29A(4)

Permit variations 20

36 Minister may vary permit

- (1) The Minister may, at any time, vary a permit—
 - (a) on the initiative of the Minister in accordance with **subsection (3)**; or
 - (b) on the application of the permit holder.
- (2) A variation to a permit may do any 1 or more of the following: 25
 - (a) make a minor extension to the permit area:
 - (b) extend the duration of the permit:
 - (c) amend the conditions of the permit.
- (3) The Minister may vary a permit on the Minister's initiative only—
 - (a) with the prior written consent of the permit holder; and 30
 - (b) if the Minister is satisfied that the variation is consistent with the purpose of this Act; and
 - (c) in the case of a minor extension to a permit area, if—
 - (i) the Minister is satisfied that it is a minor extension having regard to the matters set out in **section 37(3)**; and 35

- (ii) no other permit is current in respect of the extension area; and
- (iii) the Minister has consulted in accordance with **section 38**; and
- (d) in the case of an extension to the duration of a feasibility permit, if the extension would not cause the total duration of the permit to exceed 14 years ~~total duration~~; and 5
- (e) in the case of an extension to the duration of a commercial permit, ~~if the extension would not cause the permit to exceed 80 years total duration~~ if each extension would not exceed 40 years.

37 Application for minor extension to permit area

- (1) A permit holder may apply to the Minister for a minor extension to the permit area. 10
- (2) The Minister may grant the application, in whole or in part, if—
 - (a) the Minister is satisfied that it is a minor extension, having regard to the matters set out in **subsection (3)**; and
 - (b) no other permit is current in respect of the extension area; and 15
 - (c) the Minister has consulted in accordance with **section 38**; and
 - (d) the Minister has no cause to believe that the permit holder or the development no longer meets the requirements in **section 19(1)** (in the case of a feasibility permit) or **section 29(1)** (in the case of a commercial permit). 20
- (3) The matters the Minister must have regard to when deciding whether a proposed extension is a minor extension are—
 - (a) whether the extension could materially alter—
 - (i) the amount of power that was proposed to be generated; or
 - (ii) the benefits for New Zealand that were assessed under **section 19(1)(a)** (in the case of a feasibility permit) or **section 29(2)(a)** (in the case of a commercial permit); and 25
 - (aa) whether the extension could impact any obligations arising under existing Treaty settlements; and
 - (b) whether the extension could adversely impact any other existing rights or interests; and 30
 - (c) whether, given the extension, the permit area would continue to be a reasonable size for the development; and
 - (d) whether the extension involves an area that is or has been the subject of a feasibility permit application by another person; and 35
 - (e) whether the extension is necessary for the permit holder to undertake activities in accordance with a resource consent or marine consent; and
 - (f) any other matters the Minister considers relevant.

Guidance note

For a more than minor extension, see instead **subparts 2 and 3** (which relate to applications for new permits).

For a reduction in permit area, see **section 57** (which relates to applications for full or partial surrender of permits).

5

38 Consultation requirements for minor extension to permit area and other decisions likely to significantly impact Māori groups

(1) This section applies before the Minister makes a decision—

(a) under **section 36(3)(c) or 37(2)** (relating to a minor extension of permit area); or

10

(b) under **sections 39 to 41** that the Minister has reasonable cause to believe is likely to significantly impact on any of the groups referred to in this section.

(2) ~~Before making a minor extension to a permit area, the~~ The Minister must consult with the following groups about the decision with any of the following groups that the Minister has reasonable cause to believe are likely to be significantly impacted by the decision:

15

(a) any relevant iwi authorities, hapū, and Treaty settlement entities, including—

(i) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements; and

20

(ii) the tangata whenua of any area within the permit area that is a taiāpure-local fishery, a mātaimai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996; and

25

(b) any relevant protected customary rights groups, customary marine title groups, and applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011; and

(c) ngā hapū o Ngāti Porou, if the extension is within or adjacent to, or the extension would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou; and

30

(d) in the case of a decision under **section 36(3)(c) or 37(2)** (relating to a minor extension of permit area), any permit holder who the Minister considers may be affected by the proposed extension to the permit area.

39 Application to extend duration of feasibility permit

35

(1) A permit holder may apply to the Minister to extend the duration of a feasibility permit.

(2) The application must—

- (a) be made at least 90 working days before the permit ceases to be current (but *see* **section 59**); and
 - (b) specify the proposed new end date; and
 - (c) include a revised development plan; and
 - (d) set out how the permit holder considers the requirements in **subsection (3)(b)** are met. 5
 - (3) The Minister may grant the application, in whole or in part, if—
 - (a) the extension would not cause the total duration of the permit to exceed 14 years ~~total duration~~; and
 - (b) the Minister is satisfied that— 10
 - (i) ~~1 either~~ or both of the following ~~applies~~ apply:
 - (A) events outside of the permit holder's control are highly likely to prevent the permit holder from applying for a commercial permit before the feasibility permit ceases to be current: 15
 - (B) a circumstance prescribed by the regulations; and
 - (ii) the extension is necessary to enable the permit holder to obtain a commercial permit; and
 - (c) the Minister has no cause to believe that the permit holder or the development no longer meets the requirements in **section 19(1)**. 20
- 40 Application to extend duration of commercial permit**
- (1) A permit holder may apply to the Minister to extend the duration of a commercial permit.
 - (2) The application must—
 - (a) be made at least 5 years before the permit ceases to be current (but *see* **section 59**); and 25
 - (b) specify the proposed extension period (which must not exceed 40 years) and the proposed new end date; and
 - (c) include a revised development plan; and
 - (d) set out how the permit holder considers that **subsection (3)(b)** applies. 30
 - (3) The Minister may grant the application, in whole or in part, if—
 - (a) ~~the extension would not cause the permit to exceed 80 years total duration; and~~
 - (b) the Minister is satisfied that 1 or more of the following ~~applies~~ apply:
 - (i) the operational life of the ORE infrastructure is likely to extend beyond the permit end date and the development is likely to continue to deliver benefits for New Zealand beyond the permit end date: 35

- (ii) due to events outside of the permit holder's control, the extension is necessary to enable the permit holder to comply with their decommissioning obligation:
- (iii) a circumstance prescribed by the regulations; and
- (c) the Minister has no cause to believe that the permit holder or the development no longer meets the requirements in **section 29(1)**. 5

41 Application to amend permit conditions

- (1) A permit holder may apply to the Minister to amend the conditions of the permit.
- (2) The application must be made at least 90 working days before the relevant date for meeting the condition that is proposed to be amended (but *see* **section 59**). 10
- (3) ~~The Minister may grant the application if the Minister has no cause to believe that the permit holder or the development no longer meet the requirements in **section 19(1)** (in the case of a feasibility permit) or **section 29(1)** (in the case of a commercial permit).~~ 15
- (3) The Minister may grant the application if the Minister—
 - (a) has no cause to believe that the permit holder or the development no longer meets the requirements in **section 19(1)** (in the case of a feasibility permit) or **section 29(1)** (in the case of a commercial permit); and 20
 - (b) is satisfied that granting the application is appropriate to give effect to the purpose of this Act or to enable the effective administration of the permitting regime.

Permit transfers and changes in significant influence

- 42 **Transfer of permit requires Minister's approval** 25
- (1) The transfer of a permit requires the prior approval of the Minister under this section.
- (2) An application for approval must—
 - (a) be made jointly by the permit holder and the proposed transferee; and
 - (b) be made within 90 working days after the date of the agreement that contains the transfer (but *see* **section 59**); and 30
 - (c) be accompanied by a copy of the agreement that contains the transfer; and
 - (d) in the case of a commercial permit, include proposals for a financial security arrangement (*see* **subpart 3 of Part 3**). 35
- (3) The Minister may give approval for a transfer if—

-
- (a) the proposed transferee is a single entity that is either a body corporate that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993; and
 - (b) in the case of a feasibility permit, the Minister is satisfied that the proposed transferee meets the permit holder suitability requirements in **section 19(1)(d) and (e)**; and 5
 - (c) in the case of a commercial permit,—
 - (i) the Minister is satisfied that the proposed transferee meets the permit holder suitability requirements in **section 29(1)(b) and (c)** (in respect of the remaining life of the permit) and **section 29(1)(e)**; and 10
 - (ii) the Minister has, in accordance with **subpart 3 of Part 3**, determined an acceptable financial security arrangement to be put in place by the proposed transferee; and
 - (iii) the Minister is satisfied that the proposed transferee will be able to put that acceptable financial security arrangement in place before the transfer takes effect; and 15
 - (iv) the Minister is satisfied that the amount secured by the proposed transferee's acceptable financial security arrangement will be equal to or greater than the amount secured by the approved financial security arrangement of the transferor at the time when the transfer takes effect; and 20
 - (d) any other requirements under the regulations are met.
 - (4) Before giving approval for a transfer, the Minister must have regard to—
 - (a) whether the proposed transferee poses any significant ~~risks~~ risk to national security or public order; and 25
 - (b) the proposed transferee's compliance record in New Zealand and internationally.

Guidance note

A person who transfers their permit will also need to transfer any marine consent under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or resource consent under the Resource Management Act 1991 that relates to the same ORE infrastructure activities. 30

43 When transfer takes effect

- (1) A transfer takes effect on the date specified by the Minister by written notice to the applicant, provided that the proposed transferee has put in place the acceptable financial security arrangement referred to in **section 42(3)(c)(ii)**. 35
- (2) The transferor is released from their financial security obligation once the transfer takes effect.

44 Meaning of change in significant influence

- (1) A **change in significant influence** over a permit holder means that, after the permit is granted, a person (**person A**)—
- (a) obtains significant influence over the permit holder; or
 - (b) ceases to have significant influence over the permit holder. 5
- (2) Person A has **significant influence** over a permit holder if—
- (a) person A has the power (whether directly or indirectly) to—
 - (i) control the composition of more than 25% of the governing body of the permit holder; or
 - (ii) exercise, or control the exercise of, more than 25% of the voting rights in the permit holder: 10
 - (b) person A has, together with 1 or more specified persons, the power (whether directly or indirectly) to—
 - (i) control the composition of more than 25% of the governing body of the permit holder; or 15
 - (ii) exercise, or control the exercise of, more than 25% of the voting rights in the permit holder.
- (3) In this section, **specified person**, in relation to person A, means—
- (a) a person who is acting or will act jointly or in concert with person A in respect of exercising, or controlling the exercise of, a power referred to in **subsection (2)**; or 20
 - (b) a person who acts, or is accustomed to acting, in accordance with the wishes of person A.

45 Meaning of approval period

Approval period, for a change in significant influence over a permit holder, means the period— 25

- (a) starting on the day the Minister gives written notice of approval; and
- (b) ending at the earliest of the following:
 - (i) immediately after the change in significant influence takes effect:
 - (ii) if approval is revoked, when notice of revocation is given: 30
 - (iii) 9 months after the day notice of approval is given.

46 Approval required for change in significant influence over permit holder

- (1) A person (**person A**) contravenes this section if—
- (a) person A—
 - (i) obtains significant influence over a permit holder; or 35
 - (ii) ceases to have significant influence over a permit holder; and

- (b) either—
 - (i) the Minister has not given approval for the change in significant influence over the permit holder; or
 - (ii) the Minister has given approval, but the change takes effect outside of the approval period. 5
- (2) However, if an application for approval has been properly made but the application is still being considered by the Minister when the change in significant influence takes effect,—
 - (a) **subsection (1)** is not contravened while the application is being considered by the Minister; and 10
 - (b) if the Minister gives approval, **subsection (1)** is not contravened; but
 - (c) if the Minister declines to give approval, **subsection (1)** must be treated as being contravened from the date the Minister gives notice of the decision.
- 47 Application for approval** 15

A person who proposes to obtain, or cease to have, significant influence over a permit holder may apply to the Minister for approval to the change in significant influence.
- 48 Minister's decision on approval**
 - (1) The Minister may give approval for a change in significant influence over a permit holder if the Minister is satisfied that, given the change, the permit holder would continue to meet the permit holder suitability requirements in **section 19(1)(d) and (e) or 29(1)(b), (c), (e), and (f)** (as applicable depending on the permit type). 20
 - (2) Before giving approval, the Minister must have regard to— 25
 - (a) whether, given the change, the permit holder would pose any significant risks risk to national security or public order; and
 - (b) any other considerations that are prescribed by the regulations.
- 49 Change in circumstances during approval period**
 - (1) A person given approval for a change of significant influence must notify the Minister as soon as is reasonably practicable if, during the approval period, the person becomes aware of any change in their circumstances that may materially affect the Minister's consideration of any of the matters referred to in **section 48**. 30
 - (2) The Minister may revoke an approval at any time during the approval period if, after giving the approval, the Minister becomes aware of any circumstances that affect the Minister's consideration of the matters referred to in **section 48**. 35

50 Notification of change in significant influence

- (1) A person who obtains, or ceases to hold, significant influence over a permit holder in accordance with an approval must notify the Minister no later than 20 working days after the change in significant influence takes effect.
- (2) A person who obtains, or ceases to hold, significant influence over a permit holder without an approval or outside the approval period must notify the Minister as soon as practicable after the change in significant influence takes effect. 5

51 Requirement for approval is in addition to other requirements

Section 46 does not limit any other legislation that must be complied with in order to give effect to a proposed change in significant influence. 10

52 General provisions relating to transfers and changes in significant influence

- (1) The Minister may give approval to a transfer under **section 42** or to a change in significant influence under **section 46** subject to any further conditions that the Minister thinks fit. 15
- (2) All conditions of the Minister's approval are, for the purposes of this Act, to be treated as conditions of the relevant permit.
- (3) All conditions of the Minister's approval take effect on the date the transfer or change in significant influence takes effect.
- (4) If, as a result of the transfer of a permit in accordance with **section 42**, a person ceases to be a permit holder, that person ceases to have any rights or obligations under the permit except in respect of any contravention of the conditions of the permit, or of a requirement under this Act or the regulations, that occurred before the date of the transfer. 20
- (5) **Subsection (4)** is subject to— 25
 - (a) the conditions of the permit; and
 - (b) the conditions of the Minister's approval to the transfer of the permit; and
 - (c) **subparts 2 and 3 of Part 3.**

Compare: 1991 No 70 s 41D 30

*Revocation of permits***53 When permit may be revoked**

The Minister may revoke a permit if the Minister is satisfied that 1 or more of the following apply:

- (a) the permit holder has failed to comply with a requirement under this Act or the regulations or a condition of the permit: 35

- (b) ~~in the case of a feasibility permit, the permit holder has failed to begin ORE feasibility activities within 12 months of the permit start date:~~
- (c) in the case of a commercial permit, the permit holder has failed to begin ORE generation infrastructure activities within a reasonable time following the permit start date: 5
- (d) a person has failed to comply with **section 46(1) or 50(2)**:
- (e) the permit holder or the development no longer ~~meet~~ meets the requirements of **section 19(1)** (in the case of a feasibility permit) or **section 29(1)** (in the case of a commercial permit):
- (f) ~~the permit holder is no longer suitable to hold the permit for any other reason:~~ 10
- (f) the permit holder or the permit poses a significant risk to national security and that risk cannot be adequately avoided, mitigated, or managed:
- (g) the resource consent or marine consent that relates to the ORE generation infrastructure activities under the permit has been cancelled, revoked, or surrendered or has expired. 15

54 Notice of intention to revoke permit

- (1) Before revoking a permit, the Minister must give written notice to the permit holder of the Minister's intention to revoke the permit.
- (2) The notice must— 20
 - (a) set out the reasons why the Minister intends to revoke the permit; and
 - (b) invite the permit holder to make a written submission to the Minister about the proposed revocation; and
 - (c) specify the date by which the permit holder must deliver any submission to the Minister (which must be not less than 40 working days after the date of the notice). 25

55 Decision to revoke permit

- (1) The Minister must have regard to the matters set out in **subsection (2)** in deciding—
 - (a) whether to revoke a permit; and 30
 - (b) from what date a revocation will have effect.
- (2) The matters are—
 - (a) any submission made by the permit holder under **section 54**; and
 - (b) the surrounding circumstances that have led, or contributed, to the ground for revocation; and 35
 - (c) any action taken by the permit holder to remedy, or prevent recurrence of, the circumstances giving rise to the ground for revocation; and
 - (d) the potential impact revoking the permit may have on—

- (i) the permit holder; and
- (ii) New Zealand's energy system; and
- (e) any other matters that are prescribed by the regulations.

56 Notice of revocation

If the Minister decides to revoke a permit, the Minister must give written notice to the permit holder of the decision and the date the revocation takes effect. 5

Surrender of permits

57 Application for full or partial surrender of permit

- (1) A permit holder may apply to the Minister to surrender all or any part of a permit. 10
- (2) The application must set out—
 - (a) the proposed surrender area, which may be the whole permit area or a clearly identified part of the permit area; and
 - (b) the proposed date of surrender and, if that date is within 90 working days of the date of the application, an explanation as to why surrender on that date is needed; and 15
 - (c) how each of the requirements in **section 58** has been met or will be met before the proposed date of surrender.

58 Minister's decision on surrender

- (1) The Minister must grant a surrender application if— 20
 - (a) the permit holder is in compliance with all requirements under this Act and the regulations and the conditions of the permit in respect of the surrender area; and
 - (b) in the case of partial surrender, the remaining permit area would still be a reasonable size for the development; and 25
 - (c) in the case of a commercial permit, the decommissioning obligation in respect of the surrender area is complete; and
 - (d) any other requirements prescribed by the regulations are met.
- (2) ~~The Minister may provisionally grant a surrender application if the Minister is satisfied that the requirements in **subsection (1)** will be met by the permit holder before the proposed surrender date, in which case the Minister must give written notice to the permit holder of what requirements under **subsection (1)** are outstanding.~~ 30
- (2) If the Minister is satisfied that the permit holder will meet all or any of the requirements in **subsection (1)(a)** before the proposed surrender date, and that all of the other requirements in **subsection (1)** are met, the Minister may provisionally grant a surrender application, in which case the Minister must 35

give written notice to the permit holder of any requirements under **subsection (1)(a)** that are outstanding.

- (3) The Minister must reject a surrender application if the permit holder has not completed their decommissioning obligation, or has not submitted a decommissioning completion report, in respect of all ORE generation infrastructure in the relevant permit area. 5
- (4) **Subsection (3)** does not limit the grounds on which the Minister may reject a surrender application.
- (5) A surrender takes effect on the date specified by the Minister by written notice to the permit holder. 10
- (6) However, a surrender under a provisional grant cannot take effect before the permit holder has given written notice to the Minister that the outstanding requirements have been met.

Miscellaneous provisions

59 Minister may receive late applications 15

~~If the Minister is satisfied that there are compelling reasons why a permit holder could not comply with a deadline for submitting an application under sections 39 to 42, the Minister may accept an application by a later date agreed by the Minister.~~

60 Effect of expiry, revocation, or surrender 20

The expiry, revocation, or surrender of a permit does not release the permit holder from any liability incurred in respect of—

- (a) the permit while it was current; and
- (b) any act under the permit while it was current giving rise to a cause of action; and 25
- (c) obligations that this Act specifies as continuing in force after the permit ceases to be current.

Guidance note

See **section 70(2)** under which the decommissioning obligation continues in force after a person ceases to be a permit holder. 30

61 Permits are not real or personal property

A permit is neither real nor personal property.

62 Effect of liquidation or loss of registration

- (1) On the liquidation, dissolution, or other winding-up of a permit holder, the permit vests in the liquidator or equivalent person as if it were personal property, and the liquidator or equivalent person may deal with the permit to the same extent as the permit holder would have been able to. 35

- (2) ~~On the removal of a permit holder from~~ If a permit holder ceases to be registered on the New Zealand register or the overseas register (within the meaning of those terms in section 2(1) of the Companies Act 1993) or other relevant register on which it was registered, the permit vests in the Crown as if it were personal property. 5

- (3) A person does not have a decommissioning obligation because the permit has vested in them under this section.

Compare: 1991 No 70 s 92A

Subpart 5—Protection of infrastructure

63 Minister may declare safety zones 10

- (1) The Minister may, by notice, declare a safety zone in relation to ~~an ORE development~~, either or both of the following:

- (a) ORE generation infrastructure;
- (b) an ORE substation.

- (2) A notice must set out— 15

- (a) the ORE infrastructure ~~activity~~ to which the safety zone relates; and
- (b) the location of the ORE infrastructure ~~activity~~; and
- (c) the area of the safety zone (which may be up to 500 metres from any point on the outer edge of the ORE generation infrastructure or ORE substation to which the ORE infrastructure activity relates); and 20
- (d) the period for which the notice has effect; and
- (e) 1 or more specified restrictions that apply in the safety zone and the following details in relation to each of those restrictions; and
 - (i) the type of restriction:
 - (ii) the area of the safety zone (whether the whole or a specified part) 25
in which the restriction applies (the **restricted area**):
 - (iii) the time period (whether the whole or a specified part of the duration of the safety zone) during which the restriction applies (the **restricted time period**). 30

- (3) The type of restriction set out under **subsection (2)(e)(i)** may include, without limitation,— 30

- (a) a prohibition on ships (whether all ships or classes of ships, with or without specified exemptions) from entering the restricted area during the restricted time period, or otherwise limiting ships' access:
- (b) a prohibition or limit on activities (whether all activities or specified activities, with or without specified exemptions) in the restricted area during the restricted time period. 35

- (4) In addition to complying with the Legislation Act 2019, the Minister must publish the notice in a fortnightly edition of *New Zealand Notices to Mariners* (under Part 25 of the Maritime Rules).
- (5) A notice under **subsection (1)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 5

64 Eligibility criteria for applications for safety zones for ORE developments

- (1) A permit holder, or a person who builds, owns, or operates an ORE substation, in respect of an ORE development may apply to the Minister for an area to be declared a safety zone in relation to that development if— if they have consulted Maritime New Zealand and any persons, or representatives of persons, who may be affected by the proposed safety zone. 10
- (a) ~~they hold any relevant marine consent or resource consent required for the development; and~~
- (b) ~~they have consulted Maritime New Zealand and any persons, or representatives of persons, likely to be affected by the proposed safety zone.~~ 15
- (2) The permit holder applicant must include in their application a record of the consultation and a statement explaining how it has informed the application.
- (3) ~~The~~ A permit holder may apply for a safety zone at the time that they apply for a commercial permit in respect of the ORE development to which the application relates or after that date. 20
- (3A) A person who builds, owns, or operates an ORE substation may make an application for a safety zone in respect of the ORE substation at any time.
- (4) For the purposes of this section and **section 65 67**, ~~persons likely to be affected by a safety zone~~ persons who may be affected in relation to a proposed safety zone include, but are not limited to, the following: 25
- (a) persons with an interest in a lawfully established existing activity, in relation to the area, whether or not authorised under any legislation, involving ~~including~~ rights of access, navigation, and fishing (for example, fishing operators and members of the freight and shipping industries); and 30
- (b) persons who hold a current marine consent or resource consent, or another relevant permit or consent, in relation to the area; and
- (c) relevant local authorities; and
- (d) any relevant iwi authorities, hapū, and Treaty settlement entities, including— 35
- (i) iwi authorities and groups that represent hapū that are parties to relevant Mana Whakahono ā Rohe or joint management agreements; and

- (ii) the tangata whenua of any area within the permit area that is a taiāpure-local fishery, a mātaimai reserve, or an area that is subject to bylaws made under Part 9 of the Fisheries Act 1996; and
- (e) any relevant protected customary rights groups, customary marine title groups, and applicant groups with applications for customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011; and 5
- (f) ngā hapū o Ngāti Porou, if the proposed safety zone is within or adjacent to, or would directly affect, ngā rohe moana o ngā hapū o Ngāti Porou.
- 65 Eligibility criteria for applications for safety zones for ORE substations**
- (1) A person who builds, owns, or operates an ORE substation may apply to the Minister for an area to be declared a safety zone in relation to the substation if— 10
- (a) they hold any relevant marine consent or resource consent required for the substation; and
- (b) they have consulted Maritime New Zealand and any persons, or representatives of persons, likely to be affected by the proposed safety zone. 15
- (2) The person must include in their application a record of the consultation and a statement explaining how it has informed the application.
- (3) The person may make the application for a safety zone at any time.
- 65A Timing of safety zone declaration** 20
- A declaration of a safety zone under **section 63** in relation to ORE generation infrastructure or an ORE substation may only be made after the applicant has been granted any relevant marine consent or resource consent required for the ORE development.
- 66 Consultation about applications for safety zones** 25
- Before determining an application for the declaration of a safety zone, the Minister must consult with Maritime New Zealand, the relevant consent authority, and any other relevant agencies.—
- (a) Maritime New Zealand; and
- (b) the relevant consent authority; and 30
- (c) any other agency or local authority that the Minister considers relevant.
- 67 Determining applications for safety zones**
- (1) The Minister may—
- (a) grant an application (whether by approving the details of the safety zone proposed by the applicant or by determining alternative arrangements) and declare a safety zone in accordance with **section 63**; or 35
- (b) reject the application.

- (2) The Minister may grant an application if the Minister is satisfied that a safety zone is ~~necessary~~ appropriate for the safety of—
- (a) ~~the ORE generation infrastructure or ORE infrastructure activities or an ORE substation~~, or both; or
 - (b) any other infrastructure, structure, or installation in the vicinity of the ORE generation infrastructure or ORE substation; or
 - (c) ships; or
 - (d) persons.
- (3) In determining an application, the Minister must take into account the following: 10
- (a) ~~the nature of the ORE infrastructure activities:~~
 - (b) the size and layout of the ORE infrastructure that is the subject of the application, and the nature of the activities associated with that infrastructure:
 - (c) ~~the impact of the development that the proposed safety zone is likely to have on existing activities in the area of the persons who may be affected by the proposed safety zone.~~ 15
- (4) Before declaring a safety zone that differs in location, size, or duration from that proposed by the applicant, the Minister must—
- (a) notify the applicant of the details of the proposed safety zone that the Minister intends to declare; and 20
 - (b) invite the applicant to submit further information if the applicant disagrees with the proposed safety zone.

68 Minister may vary or cancel safety zone notice

- (1) The Minister may, at any time, vary or cancel a notice declaring a safety zone— 25
- (a) on the initiative of the Minister; or
 - (b) at the request of the permit holder or the person who builds, owns, or operates an ORE substation.
- (2) **Sections 63 to 67** apply in respect of any request for or consideration of a variation or cancellation of a notice. 30
- (3) However, if the permit holder or the person who builds, owns, or operates an ORE substation requests that the notice be cancelled, the permit holder or person is not required to carry out consultation in accordance with **section 64** before making the request. 35

68A Application of Submarine Cables and Pipelines Protection Act 1996

Nothing in this subpart affects the application of the Submarine Cables and Pipelines Protection Act 1996 to any ORE transmission infrastructure.

Part 3 Decommissioning of ORE infrastructure

Subpart 1—Preliminary provisions

69 Outline of this Part

- (1) This Part imposes obligations to— 5
 - (a) decommission ORE infrastructure (*see* **subpart 2**); and
 - (b) ensure that an acceptable financial security arrangement is put in place and maintained that is sufficient to cover the estimated cost to the Crown of decommissioning that infrastructure in the event that the permit holder or other obliged person fails to decommission (*see* **subpart 3**). 10
- (2) This Part does not limit requirements under other Acts (including under the Resource Management Act 1991 or the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012).

Guidance note

A person must also submit decommissioning plans to the Environmental Protection Authority when they apply for an application for a marine consent under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 to decommission certain infrastructure. 15

Subpart 2—Decommissioning obligation

Who has decommissioning obligation 20

70 Commercial permit holders have decommissioning obligation for ORE generation infrastructure

- (1) A person who holds a commercial permit must carry out, and meet the costs of, the decommissioning of all ORE generation infrastructure that is attributable to ORE ~~infrastructure~~—generation infrastructure activities under the permit (regardless of when the activities to which the infrastructure is attributable took place under the permit). 25
- (2) ~~A person's decommissioning obligation continues in force even if—~~
 - (a) ~~the relevant person has ceased to hold the permit; or~~
 - (b) ~~the relevant permit has ceased to be current.~~ 30
- (2) A person who has ceased to hold a commercial permit, or whose commercial permit has ceased to be current, continues to have a decommissioning obligation in respect of all ORE generation infrastructure that was in place at the time of cessation.

- (3) This section is subject to **section 72** (which ~~requires the Minister to remove~~ provides for release from a decommissioning obligation in some circumstances).
- (4) ~~A person may carry out their decommissioning obligation even if their permit has expired, or has been revoked or surrendered.~~ 5
- (4) A person's decommissioning obligation is not affected by the expiry, revocation, cancellation, or surrender of their permit or marine consent or resource consent (that is, they must still meet the obligation).
- Compare: 1991 No 70 ss 89J, 89K
- 71 Owners have decommissioning obligation for ORE transmission infrastructure** 10
- (1) A person who owns ORE transmission infrastructure ~~in connection with an ORE development~~ must carry out, and meet the costs of, the decommissioning of all of that ORE transmission infrastructure.
- (2) A person's decommissioning obligation continues in force even if the relevant person ceases to own the infrastructure. 15
- (3) This section is subject to **section 72** ~~(which requires the Minister to remove decommissioning obligations in some circumstances).~~
- 72 Minister must ~~remove~~ release transferor from decommissioning obligation in some circumstances** 20
- (1) This section applies if—
- (a) a commercial permit holder (the **transferor**) has transferred their permit under **section 42** to a transferee and applies to the Minister to ~~have be released from~~ be released from their decommissioning obligation in respect of ORE generation infrastructure ~~removed~~; or 25
- (b) an owner of ORE transmission infrastructure (the **transferor**) has transferred ownership of that infrastructure to a transferee and applies to the Minister to ~~have be released from~~ be released from their decommissioning obligation in respect of that ORE transmission infrastructure ~~removed~~.
- (2) The Minister must ~~remove that~~ release the transferor from their decommissioning obligation— 30
- (a) if the Minister is satisfied that the transferee has put in place an acceptable financial security arrangement with an amount secured of no less than 100% of the amount determined in accordance with the regulations, based on the decommissioning cost estimate for all ORE generation infrastructure or ORE transmission infrastructure (as the case may be) that was in place at the time of transfer; or 35
- (b) if the transferee is the State enterprise known as Transpower New Zealand Limited.

Guidance note

See **section 79(7)**, which exempts Transpower New Zealand Limited from the financial security obligation.

- (3) The Minister may ~~remove that~~ release the transferor from their decommissioning obligation earlier, in whole or in part, if the Minister is satisfied that the transferor should no longer continue to be liable to carry out, and meet the costs of, decommissioning the relevant infrastructure under this Part, after taking into account factors such as the details of the existing financial security arrangements and the financial capability of the transferee. 5

What does decommissioning obligation require 10

73 Standard of decommissioning required

- (1) In this Act, unless the context otherwise requires, **decommissioning**, in relation to any ORE infrastructure,—
- (a) means an activity undertaken under any enactment (for example, the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, or the Health and Safety at Work Act 2015), and in accordance with any requirements or standards set by or under that enactment or imposed by a regulatory agency, to take infrastructure out of service permanently; and 15
 - (b) includes undertaking site restoration when ORE infrastructure activities cease (for whatever reason); and 20
 - (c) includes any other activity prescribed by the regulations in relation to the infrastructure.
- (2) However, if in relation to ORE infrastructure, no other enactment, relevant standard, or requirement by a regulatory agency contains any requirements or standards relating to the method of decommissioning a particular item of ORE infrastructure, that ORE infrastructure must be decommissioned by totally removing it. 25
- (3) Despite **subsection (2)**, an item of infrastructure left in place in accordance with a marine consent, or a coastal permit ~~under~~ within the meaning of section 87(c) of the Resource Management Act 1991, must be treated as having been decommissioned. 30

Guidance note

A person must carry out the decommissioning in accordance with the decommissioning plans accepted under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. 35

The standard of decommissioning in this section applies for the purposes of determining an acceptable financial security arrangement and whether a person contravenes their decommissioning obligation under this Act.

Compare: 1991 No 70 s 89E

40

74 When decommissioning obligation must be carried out

- (1) Any person who is liable to carry out, ~~or and~~ meet the costs of, the decommissioning of ORE infrastructure, or both, under this Part must carry out their decommissioning obligation before the earliest of the following:
- ORE generation infrastructure* 5
- (a) in a case where ORE generation infrastructure permanently ceases to be used for the purpose of generating energy in a permit area before the commercial permit expires, by a time agreed with the Minister:
- (b) ~~by a time required by the regulations:~~
- (c) in the case of ORE generation infrastructure, by the expiry or surrender of the commercial permit under which the ORE generation infrastructure activities were carried out: 10
- ORE transmission infrastructure*
- (d) in a case where ORE transmission infrastructure permanently ceases to be used for the purpose of storing, transmitting, or conveying energy, by a time agreed with the Minister: 15
- (e) by a time required by the regulations.
- (2) However, if a commercial permit is revoked, the person who held the permit immediately before it was revoked must carry out their decommissioning obligation of the ORE generation infrastructure by a time agreed with, or specified by, the Minister. 20
- (3) ~~The regulations may specify further requirements for when decommissioning must be carried out, including the criteria for agreeing or setting time frames for decommissioning for the purpose of~~ **subsection (1).** 25
- Compare: 1991 No 70 s 89N(1), (2)

74A Criteria for agreeing or setting time frames for decommissioning

When considering under **section 74** what date or dates for decommissioning are to be agreed to, or specified, by the Minister, the Minister must consider—

- (a) the size of the ORE development to be decommissioned:
- (b) the complexity of the required decommissioning: 30
- (c) the decommissioning proposal and any decommissioning plans accepted under other enactments:
- (d) any consents granted in relation to decommissioning the ORE development:
- (e) the estimated date on which generation from the ORE development will cease: 35
- (f) the time required to comply with requirements under other enactments before decommissioning can commence or be completed:

(g) any other matters the Minister considers relevant.

Compare: 1991 No 70 s 89O

Requirements connected to decommissioning obligation

75 Decommissioning proposals

(1AAA) The purpose of this section is to ensure that the Minister has information to 5
inform the decommissioning cost estimate.

- (1) A person who has a decommissioning obligation in respect of any ORE infrastructure must submit a decommissioning proposal to the Minister,—
 - (a) if they are the applicant for a commercial permit, as part of the application (*see* **section 26(c)**); and 10
 - (b) at the times, or within a period after the occurrence of any events, that are prescribed by the regulations (if any); and
 - (c) on request from the Minister, within any reasonable time specified in the request.
- (2) A decommissioning proposal must— 15
 - ~~(a) describe the proposed decommissioning activities and the processes to be used to carry out those activities, and set out a proposed schedule for those activities; and~~
 - (a) be based on total removal of all infrastructure except where the proposal can demonstrate that total removal is not best practice nor in accordance with any requirements set out in the regulations or other enactments; and 20
 - (aa) describe the options considered or available for decommissioning infrastructure, the expected decommissioning activities, and the processes to be used to carry out those activities, and set out a proposed schedule for those activities; and 25
 - (b) be accurate as at the date of submission to the Minister; and
 - (c) contain the information prescribed by the regulations (if any); and
 - (d) meet any further requirements prescribed by the regulations.

Compare: 1991 No 70 s 89ZB

76 Decommissioning cost estimates 30

- (1) A person who has a decommissioning obligation in respect of any infrastructure must submit a cost estimate of all ~~proposed~~ expected decommissioning activities (the **decommissioning cost estimate**) to the Minister—
 - (a) if they are the applicant for a commercial permit, as part of the application (*see* **section 26(c)**); and 35
 - (b) at the times, or within a period after the occurrence of any events, that are prescribed by the regulations (if any); and

- (c) on request from the Minister, within any reasonable time specified in the request.
- (2) The decommissioning cost estimate must—
- (a) ~~estimate what the cost to the Crown would be if the Crown were to carry out all proposed decommissioning activities that are specified in the decommissioning proposal; and~~ 5
- (b) ~~be based on totally removing the infrastructure, except to the extent that **section 73(2)** will not apply (that is, because another enactment, relevant standard, or requirement by a regulatory agency contains requirements or standards relating to the method of decommissioning a particular item of infrastructure); and~~ 10
- (a) include estimates of the cost to the Crown—
- (i) if the Crown were to carry out decommissioning according to the options described in the decommissioning proposal; and
- (ii) if the Crown were to carry out decommissioning to the standard required under **section 73(2)**, if that differs from the cost estimate under **subparagraph (i)**; and 15
- (c) comply with the standards prescribed by the regulations (if any) for developing that estimate; and
- (d) meet any further requirements prescribed by the regulations (if any). 20
- (3) The Minister may require any person who submits a decommissioning cost estimate to supply further information relating to the cost estimate, in which case, *see* **section 116** (which relates to the use and disclosure of information).
Compare: 1991 No 70 s 89ZC

77 Decommissioning completion reports 25

- (1) A person who has completed their decommissioning obligation in respect of any ORE infrastructure must submit a decommissioning completion report to the chief executive—
- (a) at the times, or within a period after the occurrence of any events, that are prescribed by the regulations (if any); and 30
- (b) on request from the Minister, within any reasonable time specified in the request.
- (2) The decommissioning completion report must—
- (a) contain the information prescribed by the regulations (if any); and
- (b) meet any further requirements prescribed by the regulations. 35

Compare: 1991 No 70 s 89ZE

78 Information needed to monitor financial position

- (1) A person who has, or will have, a decommissioning obligation in respect of any ORE infrastructure (**person A**) must keep a record of any information prescribed by the regulations as relevant and reasonably necessary to enable the Minister to monitor person A's financial position (including in relation to financial securities). 5
- (2) ~~Person A must submit a copy of the information to the Minister—~~
- (a) ~~at the times, or within a period after the occurrence of any events, that are prescribed by the regulations (if any); and~~
- (b) ~~on request from the Minister, within any reasonable time specified in the request.~~ 10
- (3) ~~Person A must provide a copy of the information to the Minister—~~
- (a) ~~in the form and in the manner set out in the request; and~~
- (b) ~~within any reasonable time specified in the request.~~
- (2) Person A must provide a copy of the information to the Minister in the manner, and within the time frames, requested by the Minister or prescribed by the regulations. 15
- (4) *See section 116* (which relates to the use and disclosure of information).
Compare: 1991 No 70 s 89ZF

Subpart 3—Obligation to provide Crown with financial security 20

Obligation to ensure that acceptable financial security arrangement is put in place and maintained

79 Obligation to ensure that acceptable financial security arrangement is put in place and maintained

- (1) A person who has a decommissioning obligation in respect of any ORE infrastructure (**person A**) must ensure that an acceptable financial security arrangement is put in place and maintained as security for the Crown for the performance of that decommissioning obligation (*see sections 80 to 83*). 25
- (2) Person A must put in place the acceptable financial security arrangement by the time specified by the Minister under **section 83(3)(c) 83(1)(a)(iv)**. 30
- (3) Person A, if they are a permit holder, must maintain the acceptable financial security arrangement—
- (a) at all times while that permit is in force; and
- (b) at all times while their financial security obligation continues in force under **subsection (5)**. 35
- (4) Person A, if they are owner of ORE transmission infrastructure, must maintain the acceptable financial security arrangement—

- (a) at all times while they are the owner of that infrastructure; and
 - (b) at all times while their financial security obligation continues in force under **subsection (5)**.
- (5) Person A's financial security obligation continues in force, and the financial security continues to be available to the Crown, even if,— 5
 - (a) in the case of ORE generation infrastructure, the relevant permit ceases to be current or person A ceases to be a commercial permit holder; and
 - (b) in the case of ORE transmission infrastructure, person A ceases to own the infrastructure.
- (6) However,— 10
 - (a) **subsections (3) to (5)** are subject to the provisions of this Act that provide for the release or other ending of person A's decommissioning or financial security obligations (*see*, for example, **sections 43(2)** and **72**); and
 - (b) despite **subsections (3) to (5)**, the Minister may give consent,— 15
 - (i) in the case of a bond or cash or a cash deposit, for the person to use all or part of that amount to carry out the decommissioning to which that security relates; or
 - (ii) for the security to be released and built up again over the life of the development under **section 83(1)(a)(iv)** (which allows the Minister to specify the times by which different securities that comprise the financial security arrangement must or may be put in place and maintained); or 20
 - (iii) for particular securities that comprise the financial security arrangement to be released (for example, to allow for particular securities to relate to specific pieces of infrastructure and to be released when that piece of infrastructure is decommissioned); or 25
 - (iv) for a person who is or was an owner of ORE transmission infrastructure to be released from the obligation to maintain an acceptable financial security arrangement. 30
- (7) This section does not apply to the State enterprise known as Transpower New Zealand Limited to the extent that the decommissioning obligation is in respect of any ORE transmission infrastructure.

Compare: 1991 No 70 s 89ZL(1)

80 Purpose of acceptable financial security arrangement 35

The purpose of an acceptable financial security arrangement is to ensure that financial security is available to the Crown to pay any costs, expenses, and liabilities that the Crown may incur in connection with, or as a result of, a failure of the relevant commercial permit holder or other person to carry out, or

meet the costs of, the decommissioning of the relevant ORE infrastructure as follows:

- (a) it must be put in place and maintained on behalf of the Crown; and
- (b) it must be of an amount determined in accordance with the regulations, based on the information provided about the decommissioning activities that are included in the decommissioning proposal and the decommissioning cost estimate; and 5
- (c) it must meet any other criteria specified ~~in~~ by the regulations.

Process for reaching acceptable financial security arrangement

81 Proposal for financial security arrangement 10

- (1) A person who has a financial security obligation must—
 - (a) propose how they will provide financial security to the Crown, including—
 - (i) the kind of financial security arrangement that the person considers appropriate; and 15
 - (ii) the proposed time by which the financial security arrangement will be in place; and
 - (iii) who the financial security arrangement will be held by; and
 - (iv) how the financial security arrangement will operate; and
 - (v) any proposed conditions of the financial security arrangement; 20
and
 - (b) provide any information reasonably required by the Minister to enable the Minister to determine the acceptable financial security arrangement in accordance with **section 83**.
- (2) The person must provide the information referred to in **subsection (1)**— 25
 - (a) if they are an applicant for a commercial permit, as part of the application (*see* **section 26(d)**); and
 - (b) if they are a proposed transferee of a commercial permit, as part of the application for approval of the transfer (*see* **section 42(2)(d)**); and
 - (c) if they are any other person, at the time specified by the Minister; and 30
 - (d) in the form and manner prescribed by the regulations.
- (3) *See* **section 116** (which relates to the use and disclosure of information).
Compare: 1991 No 70 s 89ZL(2), (4), (6)

82 Matters to be taken into account in determining or altering acceptable financial security arrangement 35

- (1) When making a determination under **section 83** or exercising a power under section 84, the Minister must take into account—

- (a) the information provided under **section 81** about—
 - (i) the kind of financial security arrangement that the person considers appropriate; and
 - (ii) the proposed time by which the financial security arrangement will be in place; and
 - (b) the decommissioning proposal; and
 - (c) the decommissioning cost estimate; and
 - (d) any other matters prescribed by the regulations.
- (2) When deciding whether a proposal under **section 81** may be determined to be an acceptable financial security arrangement, the Minister may take into account any information relating to current or emerging risks to the person's ability to comply with their decommissioning obligation.

Compare: 1991 No 70 s 89ZM

83 Minister's determination on acceptable financial security arrangement

- (1) After following the process in **sections 81 and 82**, the Minister must—
- (a) determine the acceptable financial security arrangement that must be put in place and maintained by or on behalf of the relevant person, including—
 - (i) the total amount that must be secured by the financial security arrangement:
 - (ii) the amount secured by each security that comprises the financial security arrangement:
 - (iii) the kind or kinds of securities that comprise the acceptable financial security arrangement:
 - (iv) the time by which the financial security arrangement must be in place (including, if applicable, the times when different securities that comprise the financial security arrangement must or may be in place):
 - (v) if applicable, how the securities that comprise the financial security arrangement must be held:
 - (vi) the circumstances in which the person may be released from their obligation to maintain all or any of the securities that comprise the acceptable financial security arrangement; and
 - (b) impose any conditions of the financial security arrangement that the Minister considers appropriate.
- (2) The Minister may ~~also~~ direct how the financial security arrangement must operate, in accordance with the requirements prescribed by the regulations (if any).

- (3) The Minister must give the relevant person a notice of the Minister's determination specifying—
 - (a) the matters determined under **subsections (1)(a) and (b) and (2)**; and
 - (b) a summary of the reasons for the Minister's decision. 5
- (4) The Minister must comply with this section before the commercial permit is granted if the financial security arrangement relates to ORE generation infrastructure and the relevant person is an applicant for a commercial permit.
- (5) The Minister must comply with this section before giving approval for a transfer of a commercial permit if the financial security arrangement relates to ORE generation infrastructure and the relevant person is the proposed transferee. 10

Compare: 1991 No 70 s 89ZN

Alteration of acceptable financial security arrangements

84 Alteration of acceptable financial security arrangement

- (1) The Minister may, at any time, do any 1 or more of the following: 15
 - (a) require a person that has a financial security obligation (**person A**) to increase the total amount secured by the acceptable financial security arrangement:
 - (b) allow person A to reduce the total amount secured by the acceptable financial security arrangement: 20
 - (c) require or permit person A to otherwise alter the acceptable financial security arrangement (for example, by changing the kind of securities) that is put in place and maintained:
 - (d) allow person A to vary the conditions of the acceptable financial security arrangement (for example, vary the rate at which financial securities must build up over time). 25
- (2) **Sections 80 to 82** apply to the Minister when exercising a power in **subsection (1)**.
- (3) In addition to the matters listed in **section 82**, the Minister may take into account the results of the most recent financial capability assessment (if any). 30

Compare: 1991 No 70 s 89ZO

85 Minister must notify alterations to acceptable financial security arrangement

- (1) The Minister must, after exercising a power in **section 84(1)**, give the affected person written notice of— 35
 - (a) the required or permitted changes to the acceptable financial security arrangement to be put in place and maintained or the total amount secured by that arrangement; and

- (b) in a case where changes are required, the time by which the affected person must do this.
- (2) The notice must be accompanied by reasons for the required change.
Compare: 1991 No 70 s 89ZP
- 86 Affected person may object to alterations to acceptable financial security arrangement** 5
- (1) A person who receives written notice under **section 85(1)** may, within 30 working days of receiving that notice, object to the required change by notice in writing to the Minister.
- (2) The notice of objection must be accompanied by reasons for, and evidence or other information supporting, the objection and refer to the criteria in this sub-part that the objector considers relevant. 10
- (3) A person who has made an objection cannot make any subsequent objection to the required acceptable financial security arrangement or required change described in the notice unless there is a change in circumstances. 15
Compare: 1991 No 70 s 89ZQ
- 87 What happens if affected person makes objection**
- (1) If a person makes an objection under **section 86**, the Minister must—
- (a) give the objector an opportunity to be heard; and
- (b) consider and determine the objection within a reasonable time after its receipt. 20
- (2) The Minister must—
- (a) dismiss the objection; or
- (b) uphold the objection in whole or in part.
- (3) Not later than 30 working days after deciding whether to dismiss or uphold an objection, the Minister must send to the objector— 25
- (a) a copy of the decision, which must include the reasons for the decision; and
- (b) written notice of any required or permitted changes to the kind of security to be obtained and maintained or the amount secured, as the case requires; and 30
- (c) if **paragraph (b)** applies, and the changes are required changes, the time by which the objector must comply with the changes.
- Compare: 1991 No 70 s 89ZR

*Financial capability assessments***88 Minister may assess financial capability to meet decommissioning obligation**

- (1) This section and **sections 89 to 91** apply to a person (**person A**) who has a decommissioning obligation in respect of any infrastructure and who is— 5
- (a) a permit holder of the relevant commercial permit; or
 - (b) an owner of ORE transmission infrastructure.
- (2) The Minister may carry out an assessment to determine whether person A is highly likely to have the financial capability to carry out and meet the costs of decommissioning (a **financial capability assessment**). 10
- (3) The Minister may carry out a financial capability assessment of a commercial permit holder at any time while the relevant permit is in force.
- (4) The Minister may appoint any suitably qualified person to carry out a financial capability assessment on the Minister's behalf.
- Compare: 1991 No 70 s 89ZG 15

89 Criteria for considering whether to carry out financial capability assessment

When considering whether to carry out a financial capability assessment under **section 88**, the Minister may take into account—

- (a) information received under the following: 20
 - (i) **section 75** (which relates to decommissioning proposals):
 - (ii) **section 76** (which relates to decommissioning cost estimates):
 - (iii) **section 78** (which relates to information needed to monitor person A's financial position); and
- (b) the circumstances of person A; and 25
- (c) any information relating to current or emerging risks to person A's ability to comply with their obligations under this Part; and
- (d) any other matters the Minister considers relevant.

Compare: 1991 No 70 s 89ZH

90 Process for carrying out financial capability assessment 30

When carrying out a financial capability assessment under **section 88**, the Minister—

- (a) may take into account information received under the following:
 - (i) **section 75** (which relates to decommissioning proposals):
 - (ii) **section 76** (which relates to decommissioning cost estimates): 35
 - (iii) **section 78** (which relates to information needed to monitor person A's financial position); and

- (b) may take into account any other matters the Minister considers relevant; and
- (c) must meet the requirements prescribed by the regulations (if any).

Compare: 1991 No 70 s 89ZI

91 Minister must notify outcome of financial capability assessment 5

As soon as practicable after a financial capability assessment under **section 88** is completed, the Minister must notify person A of—

- (a) the Minister's conclusion as to whether they are highly likely to have the financial capability to carry out and meet the costs of decommissioning; and 10
- (b) the reasons for that conclusion.

Guidance note

The results of the most recent financial capability assessment (if any) will be a relevant consideration when the Minister is considering whether to alter the acceptable financial security arrangement.

15

Compare: 1991 No 70 s 89ZJ

92 Relevant persons must provide supporting information

- (1) This section applies to—
 - (a) a person who may be subject to a financial capability assessment under **section 88**; and 20
 - (b) any other person who the Minister considers is likely to hold information that is relevant and reasonably necessary to carry out a financial capability assessment (for example, parent companies, banks, or auditors).
- (2) The person must keep a record of any information prescribed by the regulations as relevant and reasonably necessary to enable the Minister to carry out a financial capability assessment. 25
- (3) The person must provide a copy of the information to the Minister—
 - (a) at the times, or within a period after the occurrence of any events, that are prescribed by the regulations (if any); and
 - (b) on request from the Minister, within any reasonable time specified in the request. 30
- (4) The Minister may, by written notice, require the person to provide any further information that the Minister considers relevant and reasonably necessary to carry out the financial capability assessment.
- (5) The person must provide a copy of the information to the Minister— 35
 - (a) in the form and in the manner set out in the notice; and
 - (b) within any reasonable time specified in the notice requiring the information.

- (6) See **section 116** (which relates to the use and disclosure of information).

Compare: 1991 No 70 s 89ZF

Subpart 4—Miscellaneous provisions about decommissioning

Provisions relating to decommissioning of ORE transmission infrastructure

- 93 Ownership requirements for transmission infrastructure** 5
- (1) The owner of ORE transmission infrastructure must be a single entity that is either a body corporate that is incorporated in New Zealand or an overseas company that is registered under Part 18 of the Companies Act 1993.
- (2) The owner of ORE transmission infrastructure must inform the chief executive within 30 working days of entering into any contract with another person to build or operate any ORE transmission infrastructure or to transfer ownership of any ORE transmission infrastructure, including details about the proposed transfer, transferee, and any other information the chief executive may require. 10
- 94 Reports about transmission infrastructure**
- The owner of ORE transmission infrastructure must provide reports about that infrastructure and related activities to the chief executive as required by the regulations (if any) or by the chief executive. 15

Miscellaneous provisions

- 95 ~~Minister's assessment has no bearing on other legislative requirements~~**
- (1) ~~This Part does not limit or affect any person's obligations under another enactment (for example, the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, or the Health and Safety at Work Act 2015).~~ 20
- (2) ~~Any requirement under this Part for a person to supply information does not replace or limit any requirement for that person to supply information under other provisions in this Act or another enactment.~~ 25
- Compare: 1991 No 70 s 89B
- 96 Joint and several liability**
- (1) **Subsection (2)** applies if there is more than 1 person that, under this Part, must carry out, or meet the costs of, the decommissioning of any infrastructure. 30
- (2) Each person to whom this subsection applies is jointly and severally liable to perform that decommissioning obligation under this Part.
- Compare: 1991 No 70 s 89P

97 Relationship with other provisions

A former permit holder is not prevented from carrying out their decommissioning obligation under this Act by **section 12**.

Guidance notes

See also **section 38C** of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, which requires a commercial permit holder to submit an accepted decommissioning plan under that Act when they make an application for a marine consent under that Act to decommission ORE infrastructure. 5

See also **sections 100E to 100H** of that Act, which relate to decommissioning plans required under that Act in respect of ORE infrastructure. 10

Part 4**Administration and enforcement****Subpart 1—Administration***Chief executive* 15**98 Delegation of functions by Minister**

- (1) The Minister may, either generally or particularly, delegate to the chief executive, in accordance with clause 5 of Schedule 6 of the Public Service Act 2020, any of the Minister's functions, duties, or powers under this Act other than—
 - (a) a decision under **section 18(2) or 28(2)** to reject an application for a permit on the grounds that ~~the grant of~~ granting a permit would or could pose a significant risk to national security or public order; and
 - (b) this power of delegation.
- (2) The chief executive may, in accordance with clauses 2 and 3 of Schedule 6 of the Public Service Act 2020, subdelegate any function, duty, or power delegated to the chief executive by the Minister in accordance with **subsection (1)**. 25
- (3) Any delegation or subdelegation made under this section may be revoked in accordance with clause 4 or 6 of Schedule 6 of the Public Service Act 2020, as the case may be. 30

Compare: 1991 No 70 s 6

99 Chief executive may approve forms

- (1) The chief executive may approve forms of applications, notices, and other documents required for the purposes of this Act that are not otherwise prescribed by the regulations. 35
- (2) If the chief executive approves a form,—

- (a) the chief executive must publish the form on an internet site maintained by or on behalf of the chief executive; and
- (b) a person must provide the application, notice, or other document in the approved form.

100 Minor corrections to permits 5

The chief executive may amend a permit to correct any minor omissions, errors, or other defects in the permit.

Enforcement officers

101 Appointment, and termination of appointment, of enforcement officers

- (1) The chief executive may appoint persons who are employees of a government department, a Crown entity, or a local authority to perform or exercise 1 or more of the functions or powers conferred on enforcement officers under this Act. 10
- (2) The chief executive must issue a warrant of authorisation to each enforcement officer that states the functions and powers of the officer. 15
- (3) An enforcement officer who exercises, or purports to exercise, a power conferred by this Act must carry and, if required to do so, produce—
 - (a) the enforcement officer's warrant of authorisation; and
 - (b) evidence of the enforcement officer's identity.
- (4) An enforcement officer's appointment may be terminated by— 20
 - (a) the chief executive revoking the appointment by written notice; or
 - (b) the enforcement officer resigning the appointment.
- (5) An enforcement officer must, on the termination or ending of the appointment, surrender their warrant to the chief executive.

Compare: 1991 No 70 s 99A 25

102 Persons assisting enforcement officer

An enforcement officer who exercises a power under this Act may be accompanied by any person or persons reasonably necessary to assist the enforcement officer to exercise that power.

Compare: 1991 No 70 s 99B(4) 30

103 Functions, duties, and powers of enforcement officers may be exercised by chief executive

The chief executive may perform or exercise the functions, duties, and powers of an enforcement officer under this Act.

*Enforcement powers***104 Power to require information**

- (1) The Minister or an enforcement officer may, by written notice, require any person to provide any information that the person giving the notice considers is necessary for any purpose relating to that person's functions, duties, or powers under this Act or for the administration or enforcement of this Act. 5
- (2) The information specified in the notice may relate to—
- (a) any aspect of the operation of a permit; and
 - (b) any commercial agreements or arrangements—
 - (i) that relate to a permit or to an ORE development in respect of which a permit is held; and 10
 - (ii) in which a person who holds an interest in the permit is a party; and
 - (c) any ORE transmission infrastructure activities.
- (3) Information may be disclosed to the Minister or an enforcement officer in confidence if— 15
- (a) a person who is required to provide information under **subsection (1)** so requests; and
 - (b) the Minister or enforcement officer agrees to that request in writing.
- (4) A person required to provide any information under this section must provide the information— 20
- (a) in the form and in the manner set out in the notice; and
 - (b) within any reasonable time specified in the notice requiring the information; and
 - (c) free of charge; and 25
 - (d) regardless of whether the Minister or enforcement officer agrees to the information being disclosed in confidence.

Compare: 1991 No 70 s 99F

105 Power of entry for inspection

- (1) An enforcement officer who is specifically authorised by the chief executive in accordance with **section 101(2)** to do so may, at all reasonable times, for the purpose specified in **subsection (2)**, enter and inspect ~~a~~ any premises, place (except a dwelling house or marae), structure, vehicle, or ship in which— 30
- (a) ORE infrastructure activities are being carried out; or
 - (b) equipment, data, or information is held in connection with ORE infrastructure activities. 35

- (2) The purpose for which the power to enter and inspect may be exercised is to determine whether the requirements of this Act or the regulations or the conditions of a permit are being complied with.
- (3) The power to enter and inspect includes the power to make copies of documents and to require a person to make, or assist in the making of, copies of documents. 5
- (4) If the owner or occupier of the premises, place, structure, vehicle, or ship is not present at the time of the inspection, the enforcement officer must leave in a prominent position at, or attached to, the premises, place, structure, vehicle, or ship a written notice showing— 10
 - (a) the date and time the inspection was carried out; and
 - (b) the name of the officer carrying out the inspection.
- (5) An enforcement officer must not enter a dwelling house or marae except— 15
 - (a) with the consent of an occupier, owner, or person in charge of that dwelling house or marae; or
 - (b) in accordance with a search warrant issued under section 98 of the Search and Surveillance Act 2012.

106 Application for warrant for entry to search

- (1) An application for a search warrant in respect of ~~a~~ any premises, place, structure, vehicle, or ship may be made by— 20
 - (a) a constable; or
 - (b) an enforcement officer specifically authorised in writing by the chief executive in accordance with **section 101(2)** to apply for search warrants.
- (2) The application must be made in the manner provided in subpart 3 of Part 4 of the Search and Surveillance Act 2012. 25
- (3) An issuing officer may issue a search warrant in respect of the premises, place, structure, vehicle, or ship if satisfied that there are reasonable grounds— 30
 - (a) to suspect that an offence has been, is being, or will be committed against the Act; and
 - (b) to believe that there is evidential material at the premises, place, structure, vehicle, or ship.

107 Application of Part 4 of Search and Surveillance Act 2012

Part 4 of the Search and Surveillance Act 2012 (other than sections 118 and 119) applies, with any necessary modifications, in respect of inspections or searches undertaken under this Act by enforcement officers. 35

Compare: 1991 No 70 s 99D

108 Power to audit records

- (1) A person referred to in **subsection (2)** may carry out an audit of records, kept by or on behalf of a permit holder, for the purpose specified in **subsection (3)**.
- (2) The following persons may carry out an audit if directed by the chief executive: 5
 - (a) an enforcement officer:
 - (b) an independent auditor appointed by the chief executive.
- (3) The purpose for which the power to carry out an audit of records may be exercised is to obtain information about the following matters and to report that information to the chief executive: 10
 - (a) the calculation and payment of any money payable to the Crown:
 - (b) compliance with any requirement under this Act or the regulations or a condition of a permit relating to keeping or providing records or other information. 15
- (4) If the chief executive appoints an independent auditor, the chief executive may require the permit holder to pay the costs of the independent auditor for the audit.

Compare: 1991 No 70 s 99E

Safety zone officers 20

109 Safety zone officers

The following persons are safety zone officers:

- (a) every constable:
 - (b) every person in charge of a ship of the New Zealand Defence Force:
 - (c) every person acting under the command of a person described in **paragraph (b)**. 25
- (2) ~~For the purposes of this section, ship includes a warship as defined in section 2(1) of the Maritime Transport Act 1994.~~

110 Powers of safety zone officers

- (1) This section applies if a safety zone officer has reasonable cause to suspect that a the master of a ship or any other person is committing, has committed, or is attempting to commit an offence under **section 148 or 153**. 30
- (2) The safety zone officer may require the master of the ship—
 - (a) to remove the ship from a safety zone; or
 - (b) not to enter a safety zone. 35
- (3) The safety zone officer may require a person—
 - (a) to leave a safety zone; or

- (b) not to enter a safety zone; or
- (c) not to carry out activities in the safety zone that contravene the restrictions declared under **section 63** in relation to the safety zone.
- (4) A safety zone officer who exercises a power under this section may be accompanied by any person or persons reasonably necessary to assist the safety zone officer to exercise the power. 5
- (5) A person who provides assistance under **subsection (4)** may exercise the powers provided to a safety zone officer under **subsections (2) and (3)**.

Protection of enforcement officers and safety zone officers

111 Protection of officers acting under authority of this Act 10

- (1) The following persons are not liable in any criminal or civil proceedings for any act done or omitted to be done in good faith in the performance or exercise, or intended performance or exercise, of their functions, duties, or powers under this Act (other than when exercising powers of inspection or to search under **sections 105 and 106**): 15
 - (a) an enforcement officer:
 - (b) a safety zone officer:
 - (c) a person called upon to assist an enforcement officer or safety zone officer.
- (2) Sections 166 and 167 of the Search and Surveillance Act 2012 apply in relation to persons exercising powers of inspection or to search under **sections 105 and 106**. 20

Compare: 1991 No 70 s 99G

Obligation of office holders

112 Office holders not to have pecuniary interest 25

Except as otherwise provided in this Act or the regulations, a person holding any office under, or employed by, the Crown in any capacity in the administration of this Act must not have a direct or an indirect pecuniary interest in any permit or any ORE development.

Compare: 1991 No 70 s 94

30

Registers, records, and use of information

113 Chief executive to maintain register of permits

- (1) The chief executive must maintain a register of permits.
- (2) The register must include the following information for each permit (whether the permit is current or has ceased to be current): 35
 - (a) the name and contact details of the permit holder:

- (b) a copy of the permit:
 - (c) a record of any variation, transfer, change of significant influence, and partial surrender approved in relation to the permit:
 - (d) any other information prescribed by the regulations.
- (3) The register may include any other information that the chief executive thinks is appropriate. 5
- (4) The chief executive must make the information on the register publicly available unless the information is commercially sensitive or disclosure is prohibited under the Privacy Act 2020.
- (5) The chief executive must update the register if the chief executive becomes aware that there is a change or an error in the information on the register. 10
- 114 Minister must notify chief executive of decisions affecting information on register**

The Minister must notify the chief executive if the Minister makes a decision under this Act that affects any information kept on the register. 15
- 115 Permit holder must keep records**
 - (1) A permit holder must keep the following records in relation to ORE infrastructure activities conducted by or on behalf of the permit holder under the permit:
 - (a) financial records, including any financial records required to be kept and retained under the Tax Administration Act 1994: 20
 - (b) commercial records, including any feasibility studies:
 - (c) scientific and technical records:
 - (d) any calculations made in support of the above records:
 - (e) records, reports, statements, or any other documentation or information required under other legislation, if regulations made under this Act prescribe that they must be retained for the purposes of this Act: 25
 - (f) any other records required by the conditions of the permit or prescribed by the regulations.
 - (2) The records must be kept—
 - (a) for at least 7 years after the year to which they relate or for at least 2 years after the permit to which they relate ceases to be current, whichever is the later; and 30
 - (b) in a form that ensures that they can be readily provided in accordance with this section; and
 - (c) in the manner prescribed by the regulations. 35
 - (3) A permit holder must provide copies of the records to the chief executive—
 - (a) at any time if requested to do so by the chief executive; and

- (b) as required by a condition of the permit; and
 - (c) as may be prescribed by the regulations.
- (4) In addition, a permit holder must provide copies of all records kept under this section before the date that a permit is transferred, surrendered in full, revoked, or otherwise ceases to be current. 5

116 Use and disclosure of information

- (1) The Minister, the chief executive, or any enforcement officer may use any information supplied under this Act for the purpose of performing or exercising any function, duty, or power conferred on a person under this Act.
- (2) However, if the Minister, the chief executive, or any enforcement officer considers that any information, in relation to any person, is commercially sensitive information or personal information, the Minister, chief executive, or enforcement officer must not disclose that information unless— 10
- (a) the disclosure is for the purposes of, or in connection with, the performance or exercise of any function, duty, or power conferred or imposed by or under this Act on the Minister, the chief executive, or any enforcement officer; or 15
 - (b) the information is publicly available; or
 - (c) the disclosure is with the consent of the person to whom the information relates, or to whom the information is confidential; or 20
 - (d) the disclosure is in connection with proceedings, or any investigation or inquiry for proceedings, for an offence against this Act or any other legislation; or
 - (e) disclosure is required by other legislation; or
 - (f) disclosure is authorised under this Act; or 25
 - (g) disclosure is required by a court of competent jurisdiction; or
 - (h) the information is disclosed to an agency under **section 118**.
- (3) In this section,— **personal information** has the meaning set out in section 7(1) of the Privacy Act 2020.
- ~~**commercially sensitive information** means information to which section 9(2)(b)(ii) of the Official Information Act 1982 refers~~ 30
- ~~**personal information** has the meaning set out in section 7(1) of the Privacy Act 2020.~~

117 Chief executive may publish certain feasibility data

- (1) This section applies to information provided by a permit holder in accordance with **section 33(b)** that is of 1 or more of the following kinds: 35
- (a) geological surveys:
 - (b) environmental monitoring:

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- (c) climate and weather patterns:
 - (d) other data obtained by the permit holder during ORE feasibility activities that is prescribed by the regulations for the purposes of this section.
 - (2) The chief executive may publish the information on an internet site maintained by the chief executive at any time on or after the earlier of— the following: 5
 - (a) the start date of a commercial permit granted in relation to a feasibility permit:
 - (b) the date that is 1 year after the date a feasibility permit ceases to be current.
 - (3) However, the chief executive must not publish information under this section that is commercially sensitive, unless the publication is with the consent of the person to whom the information relates, or to whom the information is confidential. 10
- 118 Sharing of information with agencies**
- (1) Subject to any legislation,— 15
 - (a) the Minister or the chief executive may provide an agency referred to in **subsection (2)** with any information, or a copy of any document, that the Minister or chief executive—
 - (i) holds in relation to the performance or exercise of the Minister’s or chief executive’s functions, duties, or powers under this Act; 20 and
 - (ii) considers may assist the agency in the performance or exercise of the agency’s functions, duties, or powers under any legislation; and
 - (b) an agency referred to in **subsection (2)** may provide the Minister or chief executive with any information, or a copy of any document, that it— 25
 - (i) holds in relation to the performance or exercise of its functions, duties, or powers under or in relation to any legislation; and
 - (ii) considers may assist the Minister or the chief executive in the performance or exercise of its functions, duties, or powers under this Act. 30
 - (2) The agencies for the purpose of **subsection (1)** are the following:
 - (a) ~~WorkSafe New Zealand:~~
 - (b) ~~the Environmental Protection Authority:~~ 35
 - (c) ~~Maritime New Zealand:~~
 - (d) ~~the Department of Conservation:~~
 - (e) ~~the Ministry for the Environment:~~

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- (f) ~~the Government Communications Security Bureau:~~
 - (g) ~~the New Zealand Police:~~
 - (h) ~~the New Zealand Security Intelligence Service:~~
 - (i) ~~a consent authority:~~
 - (j) ~~the Electricity Authority:~~ 5
 - (k) ~~the New Zealand Defence Force:~~
 - (l) ~~any other agency in New Zealand that holds information that relates to activities to which this Act applies.~~
- (2) The agencies for the purposes of **subsection (1)** are the following:
- (a) the Department of Conservation: 10
 - (b) the Department of the Prime Minister and Cabinet:
 - (c) the Electricity Authority:
 - (d) the Environmental Protection Authority:
 - (e) the Government Communications Security Bureau:
 - (f) Land Information New Zealand: 15
 - (g) Maritime New Zealand:
 - (h) the Ministry for the Environment:
 - (i) the Ministry of Foreign Affairs and Trade:
 - (j) the New Zealand Defence Force:
 - (k) the New Zealand Police: 20
 - (l) the New Zealand Security Intelligence Service:
 - (m) WorkSafe New Zealand:
 - (n) a consent authority:
 - (o) any other agency in New Zealand that holds information that relates to activities to which this Act applies. 25
- (3) If **subsection (1)** applies, the Minister, chief executive, or agency (as the case may be) may impose conditions relating to the provision of any information or document, including conditions relating to—
- (a) the storage and use of, or access to, anything provided:
 - (b) the copying, returning, or disposing of copies of any documents provided. 30
- (3A) An agency referred to in **subsection (2)** must not disclose any information provided to it under this section to any other person or organisation unless—
- (a) the disclosure is for the purposes of, or in connection with, the performance or exercise of any function, duty, or power conferred or imposed on the agency by a specified Act; or 35

- (b) the information is publicly available; or
- (c) the disclosure is with the consent of the person to whom the information relates, or to whom the information is confidential; or
- (d) the disclosure is in connection with proceedings, or any investigation or inquiry for proceedings, for an offence against this Act or any other enactment; or 5
- (e) disclosure is required by another enactment; or
- (f) disclosure is required by a court of competent jurisdiction.
- (4) Nothing in this section limits the Privacy Act 2020.
- (5) This section applies despite anything to the contrary in any contract, deed, or document. 10

Compare: 2017 No 29 s 85

Applications

119 Applications to Minister

- (1) This section and **sections 120 to 124** apply to an application to the Minister for the purposes of this Act. 15
- (2) The application must—
 - (aaa) be in the prescribed form (if any) or, in the absence of a prescribed form, in the form approved by the chief executive (if any); and
 - (a) contain, or be accompanied by, any information prescribed by the regulations; and 20
 - (b) be accompanied by any fee prescribed by the regulations (if any) or proof of payment of that fee; and
 - (c) otherwise be made in the manner prescribed by the regulations.

119A Minister may receive late applications 25

If the Minister is satisfied that there is a compelling reason why a person could not comply with a deadline for submitting an application under this Act, the Minister may accept an application by a later date agreed by the Minister.

120 Minister may request further information

- (1) The Minister may request an applicant to provide any further information the Minister considers will assist the Minister in assessing the application. 30
- (2) The Minister's request must—
 - (a) be made in writing; and
 - (b) set out the date by which it must be complied with (which must allow the applicant a reasonable time to comply). 35

- (3) After making a request, the Minister may defer consideration of the application until ~~the request is complied with.~~
- (a) the request is complied with; or
- (b) the applicant advises, with reasons, that it does not intend to respond to the request.

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121 Rejection of non-complying application

The Minister may reject an application without considering its merits if the application does not comply with the requirements of this Act.

122 Applicant must notify of change in circumstances

An applicant must notify the Minister as soon as is reasonably practicable if, before an application is decided, the applicant becomes aware of any change in ~~their circumstance~~ circumstances that may materially affect the Minister's consideration of the application.

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123 Time frame and manner for considering applications

The Minister must decide an application under this Act in the manner, and within any time frame, prescribed by the regulations.

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124 Minister must notify applicant of decision

- (1) As soon as practicable after making a decision on an application, the Minister must give written notice to the applicant of the decision.
- (2) The notice must include reasons for the decision if the decision is to reject an application.
- (3) If the Minister grants an application for a variation to the permit under **section 37 or sections 39 to 41**, the notice must state the date the variation takes effect.
- (4) If the Minister gives approval for a transfer under **section 42**, the notice must state the date the transfer takes effect.

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Serving notices and other documents

125 Permit holder's address for service and contact

- (1) A permit holder must give written notice to the chief executive of its address for service, which may be its physical address in New Zealand or its email address.
- (2) A permit holder must give written notice to the chief executive of—
- (a) an address (which may be an email address) and telephone number at which the permit holder can be contacted; and

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- (b) any change to the address or telephone number provided under **paragraph (a)** as soon as is reasonably practicable, but no later than 10 working days, after the change takes effect.

126 Service of notices and other documents

- (1) A notice or any other document required or authorised to be served on or given to a person for the purposes of this Act— 5
 - (a) must, if the person has specified an address for service, be served or given by sending it by post or delivering it to that address:
 - (b) may, if **paragraph (a)** does not apply, be served or given by—
 - (i) delivering it personally to the person (other than to a Minister of the Crown); or 10
 - (ii) delivering it at the usual or last known place of residence or business of the person; or
 - (iii) sending it by post addressed to the person at the usual or last known place of residence or business of the person; or 15
 - (iv) sending it to the usual or last known email address of the person; or
 - (v) leaving it at a document exchange for direction to the document exchange box number used by the person.
- (2) If a notice or other document is to be served on or given to a body (whether incorporated or not) for the purposes of this Act, service on an officer of the body, or on the registered office of the body, in accordance with **subsection (1)** is to be treated as service on the body. 20
- (3) If a notice or other document is to be served on a partnership for the purposes of this Act, service on any one of the partners in accordance with **subsections (1) and (2)** is to be treated as service on the partnership. 25
- (4) This section does not apply to notices or other documents served or given in any proceeding in any court or to the extent that a different or particular delivery method is specified by this Act or the regulations.

127 Receipt of notices and other documents

- (1) A notice or other document is treated as received,— 30
 - (a) if it is delivered to a natural person,—
 - (i) when it is handed to that person; or
 - (ii) if the person refuses to accept the document, when it is brought to the attention of, and left in a place accessible to, that person: 35
 - (b) if it is emailed, on the first working day following the day on which it is sent:

- (c) if it is posted, 5 working days after it is posted or any shorter period determined by the court in a particular case:
 - (d) if it is delivered to a document exchange, 5 working days after it is delivered or any shorter period determined by the court in a particular case. 5
- (2) In proving the serving on or giving of a notice or other document—
 - (a) by email, it is sufficient to prove that—
 - (i) the document was properly addressed; and
 - (ii) the document was properly sent to the email address:
 - (b) by post or by delivery to a document exchange, it is sufficient to prove 10
 - (i) the document was properly addressed; and
 - (ii) all postal or delivery charges were paid; and
 - (iii) the document was posted or was delivered to the document 15
 - exchange.
- (3) A notice or other document is not to be treated as having been given to a person if the person proves that, through no fault on their part, the document was not received within the time specified or at all.

Miscellaneous provisions

127A Minister's assessment has no bearing on other legislative requirements 20

- (1) This Act does not limit or affect any person's obligations under another enactment (for example, the Resource Management Act 1991, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, or the Health and Safety at Work Act 2015).
- (2) Any requirement under this Act for a person to supply information does not replace or limit any requirement for that person to supply information under other provisions of this Act or another enactment. 25

Compare: 1991 No 70 s 89B

Subpart 2—Enforcement

Compliance notices 30

128 Power to issue compliance notices

- (1) This section applies if an enforcement officer reasonably believes that a person—
 - (a) is contravening a provision of this Act or the regulations or a condition of a permit; or 35

- (b) is likely to contravene a provision of this Act or the regulations or a condition of a permit.
- (2) The enforcement officer may issue a written compliance notice requiring the person to—
 - (a) remedy the contravention; or 5
 - (b) prevent a likely contravention from occurring or reoccurring; or
 - (c) remedy the things or activities causing the contravention or likely to cause a contravention.
- (3) The enforcement officer may issue a compliance notice only if, in the opinion of the enforcement officer,— 10
 - (a) the contravention or likely contravention is or would be sufficiently serious to justify the issue of a compliance notice; or
 - (b) there has been a repeated contravention or a repetition of behaviour that is likely to lead to a contravention occurring or ~~reoccurring~~ recurring; or
 - (c) the contravention or behaviour likely to lead to a contravention has been committed intentionally or recklessly or involves negligence on the person's part. 15
- (4) However, each of the criteria specified in **subsection (3)** may be considered on the basis of the information readily available to the enforcement officer, and the enforcement officer need not make further ~~enquiries~~ inquiries before applying those criteria. 20

Compare: 1991 No 70 s 89ZZK

129 Form and content of compliance notices

- (1) A compliance notice must be in writing.
- (2) A compliance notice must state— 25
 - (a) that an enforcement officer believes, on reasonable grounds, that the person—
 - (i) is contravening a provision of this Act or the regulations or a condition of a permit; or
 - (ii) is likely to contravene a provision of this Act or the regulations or a condition of a permit; and 30
 - (b) the provision or condition the enforcement officer believes, on reasonable grounds, is being, or is likely to be, contravened; and
 - (c) briefly, how the provision or condition is being, or is likely to be, contravened; and 35
 - (d) a period within which the person is required to remedy—
 - (i) the contravention or likely contravention; or

- (ii) the things or activities causing the contravention or likely to cause a contravention.
- (3) A compliance notice may include recommendations concerning—
 - (a) the measures that could be taken to remedy the contravention, or prevent the likely contravention, to which the notice relates; and 5
 - (b) the things or activities causing the contravention, or likely to cause a contravention, to which the notice relates.
- (4) A compliance notice may be addressed to any person under the person's legal name or usual business name.

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Compare: 1991 No 70 s 89ZZL
- 130 Compliance with compliance notice**

A person who has been issued with a compliance notice must comply with the notice within the compliance period (or within any extension granted under **section 131**).

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Compare: 1991 No 70 s 89ZZM(1)
- 131 Extension of time for compliance with compliance notices**
 - (1) This section applies if a person has been issued with a compliance notice.
 - (2) The enforcement officer may, on their own initiative or on the application of the person, by written notice given to the person, extend the compliance period for the compliance notice. 20
 - (3) However, the enforcement officer may extend the compliance period only if the period has not ended.
 - (4) If a person applies for an extension 2 weeks or more before the end of the compliance period, but a decision on that application has not been reached before the compliance period ends, the compliance period is to be treated as having been extended by an additional 2 weeks to enable the decision to be made. 25

Compare: 1991 No 70 s 89ZZN
- 132 Enforcement officer may vary or cancel compliance notice**
 - (1) An enforcement officer may, at any time, vary or cancel a compliance notice issued to a person by written notice to that person. 30
 - (2) A variation or cancellation of a compliance notice takes effect on the date specified in the notice of variation or cancellation or, if no date is specified, on the day on which that notice is issued.
- 133 Formal irregularities or defects in compliance notice**

A compliance notice is not invalid merely because of— 35

 - (a) any defect, irregularity, omission, or want of form in the notice unless the defect, irregularity, omission, or want of form causes or is likely to cause a miscarriage of justice; or

- (b) a failure to use the correct name of the person to whom the notice is issued if the notice sufficiently identifies the person.

Compare: 1991 No 70 s 89ZZR

134 Changes to compliance notice by enforcement officer

An enforcement officer may make minor changes to a compliance notice— 5

- (a) for clarification; or
- (b) to correct errors or references; or
- (c) to reflect changes of address or other circumstances.

Compare: 1991 No 70 s 89ZZP

135 How compliance notice is issued 10

- (1) A compliance notice may be issued to a person by—
 - (a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or
 - (b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 16 years; or 15
 - (c) leaving it for the person at the person's place of business or work with another person; or
 - (d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or
 - (e) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand. 20
- (2) Regulations may prescribe the steps a person to whom a compliance notice is issued must take to bring it to the attention of other persons.
- (3) A compliance notice— 25
 - (a) posted under **subsection (1)(d)** is to be treated as having been received by the person 5 working days after the day on which it was posted:
 - (b) sent electronically under **subsection (1)(e)** is to be treated as having been received at the time the electronic communication first entered an information system that is outside the control of the chief executive or an enforcement officer. 30

Compare: 1991 No 70 s 89ZZS

136 Civil proceedings relating to non-compliance with compliance notice

- (1) On an application by an enforcement officer, the District Court may make an order— 35
 - (a) compelling a person to comply with a compliance notice; or
 - (b) restraining a person from contravening a compliance notice.

- (2) The court may make an order—
- (a) under **subsection (1)(a)** if it is satisfied that the person has refused or failed to comply with a compliance notice:
 - (b) under **subsection (1)(b)** if it is satisfied that the person has contravened, is contravening, or is likely to contravene a compliance notice. 5
- (3) The court may make an order under **subsection (1)** whether or not proceedings have been brought for an offence against this Act or regulations in connection with any matter in relation to which the compliance notice was issued.

Compare: 1991 No 70 s 89ZZT

Enforceable undertakings 10

137 Enforcement officer may accept enforceable undertakings

- (1) An enforcement officer may, on application by a person, accept an undertaking given by the person in connection with a contravention or an alleged contravention of a provision of this Act or the regulations.
- (2) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention or alleged contravention to which the undertaking relates. 15

138 Notice of decision and reasons for decision

The enforcement officer must give the person seeking to make an enforceable undertaking written notice of— 20

- (a) their decision to accept or reject the undertaking; and
- (b) the reasons for that decision.

139 When undertaking is enforceable

An enforceable undertaking takes effect and becomes enforceable when the enforcement officer's decision to accept the undertaking is given to the person who made the undertaking, or at any later date specified by the enforcement officer. 25

140 Withdrawal or variation of enforceable undertaking

- (1) A person who has given an enforceable undertaking may, with the written consent of the chief executive,— 30
 - (a) withdraw the undertaking; or
 - (b) vary the undertaking.
- (2) However, the undertaking cannot be varied to provide for a different alleged contravention of this Act or the regulations.

141 Compliance with enforceable undertaking

A person must not contravene an enforceable undertaking given by that person that is in force.

142 Contravention of enforceable undertaking

- (1) An enforcement officer may apply to the District Court for an order referred to in **subsection (2)** if a person contravenes an enforceable undertaking. 5
- (2) If the court is satisfied that the person who made the enforceable undertaking has contravened the undertaking, the court may make 1 or more of the following orders:
 - (a) an order directing the person to comply with the undertaking: 10
 - (b) an order discharging the undertaking.
- (3) In addition to the orders referred to in **subsection (2)**, the court may make any other order that the court considers appropriate in the circumstances, including orders directing the person to pay the chief executive—
 - (a) the costs of the proceedings; and 15
 - (b) the reasonable costs of the enforcement officer in monitoring compliance with the enforceable undertaking in the future.
- (4) This section does not prevent proceedings being brought for the contravention or alleged contravention of this Act or the regulations to which the enforceable undertaking relates. 20

143 Proceedings for alleged contravention

- (1) If a person has given an enforceable undertaking in relation to a contravention or an alleged contravention of this Act or the regulations, no proceedings (whether civil or criminal) may be brought against them in relation to that contravention— 25
 - (a) while the undertaking is in effect; and
 - (b) at any later time, if they have completely discharged the undertaking.
- (2) An enforcement officer may accept an enforceable undertaking in relation to a contravention or an alleged contravention of this Act or the regulations before proceedings in relation to that contravention have been completed. 30
- (3) If an enforcement officer accepts an enforceable undertaking before the proceedings are completed, the enforcement officer must take all reasonable steps to have the proceedings discontinued as soon as practicable (to the extent that the proceedings relate to the contravention or alleged contravention).

*Offences***144 Offence for undertaking ORE generation infrastructure activities under consent without commercial permit**

- (1) A person commits an offence if they contravene, or permit a contravention of, **section 12** (which prohibits a person from giving effect to a resource consent or marine consent by undertaking ORE generation infrastructure activities unless the person is a holder of a commercial permit under this Act). 5
- (2) A person who commits an offence against this section is liable on conviction,—
- (a) if they are an individual, to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$1 million, or both; or 10
- (b) in any other case, to a fine not exceeding \$10 million.

145 Offence for change in significant influence over permit holder without approval

- (1) A person commits an offence if they contravene, or permit a contravention of, **section 46** (which relates to the requirement not to make a change in significant influence over a permit holder without the Minister's approval). 15
- (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$800,000.
- (3) In a prosecution of a person for an offence against this section, it is a defence if the defendant proves that they did not know, and could not reasonably be expected to have known, that they obtained, or ceased to hold, significant influence over the permit holder. 20

146 Offence for failing to notify Minister of change in circumstance

- (1) A person commits an offence if, without reasonable excuse, they contravene, or permit a contravention of,— 25
- (a) **section 49** (which relates to the requirement to notify the Minister of a change in circumstances that may materially affect the Minister's decision on an approval for a change in significant influence over a permit holder); or 30
- (b) **section 122** (which relates to the requirement to notify the Minister of a change in circumstances that may materially affect the Minister's consideration of an application).
- (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$200,000. 35

- 147 Offence for failing to notify Minister of change in significant influence over permit holder**
- (1) A person commits an offence if they contravene, or permit a contravention of, **section 50** (which relates to the requirement to notify the Minister of a change in significant influence over a permit holder). 5
 - (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$200,000.
 - (3) In a prosecution of a person for an offence against this section, it is a defence if the defendant proves that they did not know, and could not reasonably be expected to have known, that they obtained, or ceased to hold, significant influence over the permit holder. 10
- 148 Offence for entering or carrying out activity in safety zone**
- (1) A person commits an offence if they are the master of a ship and, without reasonable excuse,—
 - (a) ~~they are the master of a ship; and~~ 15
 - (b) the ship enters or is present in a safety zone; and
 - (c) the ship's presence, or the activity carried out by or on the ship, in the safety zone contravenes the restrictions declared in a notice made under **section-62 63** in relation to the safety zone.
 - (2) A person commits an offence if, without reasonable excuse,— 20
 - (a) they enter a safety zone; and
 - (b) the person's presence, or the activity carried out by the person, in the safety zone contravenes the restrictions declared in a notice made under **section-62 63** in relation to the safety zone.
 - (3) A person who commits an offence against **subsection (1) or (2)** is liable on conviction to a fine not exceeding \$10,000. 25
 - (4) No proceedings for an offence against this section may be brought in a New Zealand court without the consent of the Attorney-General in respect of an offence under this section committed by a person on board, ~~or by a person leaving,~~ a foreign ship. 30
 - (5) ~~In a prosecution of a person for an offence against this section, it is a defence if the defendant proves that they had a reasonable excuse for the contravention.~~
 - (6) For the purposes of ~~subsection (5)~~ **subsections (1) and (2)**, a **reasonable excuse** for a contravention includes, but is not limited to, the following: 35
 - (a) it was necessary in order to save a person's life or save a ship:
 - (b) it was necessary to secure the safety of ORE infrastructure or other structures or equipment:
 - (c) the person took all reasonable steps to avoid the contravention.

149 Offence for knowingly failing to meet decommissioning obligation or financial security obligation

- (1) A person commits an offence if—
- (a) they do any of the following:
- (i) contravene, or permit a contravention of, **section 70 or 71** by failing to carry out or meet the costs of (or both) the decommissioning of any ORE infrastructure as required by **subpart 2 of Part 3:** 5
 - (ii) act, fail to act, or engage in a course of conduct that results in the person not being able to meet all or part of their decommissioning obligation by the time the person is required to do so under **section 74:** 10
 - (iii) contravene, or permit a contravention of, **section 79** by failing to put in place, or maintain (or both), an acceptable security arrangement as required by **subpart 3 of Part 3;** and 15
- (b) they do so knowing that the failure, act, or course of conduct will have that result.

Guidance note

See also **section 157**, which provides that a person may be liable for a pecuniary penalty for contravening their decommissioning obligation or their financial security obligation. 20

- (2) If a body corporate commits an offence under this section, a person who is a director of that body corporate at the time the offence was committed also commits the offence.
- (3) A person who commits an offence under this section is liable on conviction,— 25
- (a) if they are an individual (including an individual director), to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$1 million, or both; or
 - (b) in any other case, the greater of— 30
 - (i) a fine not exceeding \$10 million; and
 - (ii) a fine not exceeding 3 times the cost of decommissioning or, in the case of a contravention of the financial security obligation, 3 times the amount by which the contravention reduced the required amount of the security (~~see **section 80(2)(a)** for how that amount is to be determined~~ **section 83**, under which the Minister determines the amount that must be secured by a financial security arrangement). 35
- (4) In a prosecution of a director for an offence against this section, it is a defence if the director proves that—

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- (a) the person liable for carrying out the decommissioning obligation or financial security obligation (**person A**) took all reasonable steps to ensure that person A would meet person A's obligation; or
- (b) the director took all reasonable steps to ensure that person A would meet person A's obligation; or 5
- (c) in the circumstances, the director could not reasonably have been expected to take steps to ensure that person A would meet person A's decommissioning obligation or financial security obligation.
- (5) Proceedings under this section may be commenced within 3 years after the matter giving rise to the offence was discovered or ought reasonably to have been discovered (whichever is earlier). 10
- 150 Offence for wilfully obstructing, hindering, resisting, or deceiving person executing powers**
- (1) A person commits an offence if they wilfully obstruct, hinder, resist, or deceive any person in the execution of any powers conferred on that person by or under this Act. 15
- (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$3,000.
- 151 Offence for failing to provide information**
- (1) A person commits an offence if, without reasonable excuse, they contravene, or permit the contravention of, a requirement from the Minister or an enforcement officer to provide information under **section 104** (~~which relates to the requirement to provide information to the Minister or an enforcement officer~~). 20
- (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$20,000. 25
- 152 Offence for knowingly providing false information**
- (1) A person commits an offence if—
- (a) they provide, or permit the provision of, false, altered, incomplete, or misleading information to a person performing functions or exercising powers under this Act or the regulations; and 30
- (b) they know that the information is false, altered, incomplete, or misleading.
- (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$800,000.
- 153 Offence for failing to comply with requirement of safety zone officer** 35
- (1) A person commits an offence if, without reasonable excuse, they fail to comply with a requirement of a safety zone officer under **section 110**.

- (2) A person who commits an offence against this section is liable on conviction,—
- (a) if they are an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$15,000, or both; or
 - (b) in any other case, to a fine not exceeding \$150,000. 5
- (3) No proceedings for an offence against this section may be brought in a New Zealand court without the consent of the Attorney-General in respect of an offence under this section committed by a person on board, ~~or by a person leaving,~~ a foreign ship.
- 154 Offence for office holder having pecuniary interest 10**
- (1) A person commits an offence if they contravene, or permit the contravention of, **section 112** (which relates to the requirement for an office holder not to have a pecuniary interest in a permit).
- (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$20,000. 15
- (3) In a prosecution of a person for an offence against this section, it is a defence if the defendant proves that they did not know, and could not reasonably be expected to have known, that ~~they~~ the office holder held a pecuniary interest in a permit.
- 155 Offence for contravening compliance notice 20**
- (1) A person commits an offence if, without reasonable excuse, they contravene, or permit the contravention of, **section 130** (which relates to the requirement to comply with a compliance notice).
- (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$200,000. 25
- ~~(3) In a prosecution of a person for an offence against this section, it is a defence if the defendant proves that they had a reasonable excuse for the contravention.~~
- (4) It is not an offence to fail to comply with recommendations in a compliance notice.
- 156 Offence for contravening enforceable undertaking 30**
- (1) A person commits an offence if, without reasonable excuse, they contravene, or permit the contravention of, **section 141** (which relates to the requirement not to contravene an enforceable undertaking).
- (2) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$200,000. 35
- (3) If an enforceable undertaking has been given, criminal proceedings may be taken for an offence within 6 months after—
- (a) the enforceable undertaking is contravened; or

- (b) it comes to the notice of the chief executive that the undertaking has been contravened; or
- (c) the chief executive agreed to the withdrawal of the undertaking.

Pecuniary penalties

- 157 Pecuniary penalty contravention** 5
- (1) A person commits a pecuniary penalty contravention if they do any of the following:
- (a) contravene, or permit a contravention of, **section 70 or 71** by failing to carry out or meet the costs of (or both) the decommissioning of any infrastructure as required by **subpart 2 of Part 3**: 10
 - (b) act, fail to act, or engage in a course of conduct that results in the person not being able to meet all or part of their decommissioning obligation by the time the person is required to do so under **section 74**:
 - (c) contravene, or permit a contravention of, **section 79** by failing to put in place, or maintain (or both), an acceptable security arrangement as required by **subpart 3 of Part 3**. 15
- (2) A person **commits a pecuniary penalty contravention** against this section if the person—
- (a) actually commits a contravention set out in **subsection (1)**; or
 - (b) is involved in the contravention by— 20
 - (i) aiding, abetting, counselling, or procuring the contravention; or
 - (ii) inducing (by threats, promises, or otherwise) a person to commit the contravention; or
 - (iii) conspiring with others to commit the contravention; or
 - (c) attempts to actually commit or attempts to induce another person to actually commit the contravention; or 25
 - (d) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by another person.
- 158 Pecuniary penalty order**
- (1) A court of competent jurisdiction may, on the application of an enforcement officer, make a pecuniary penalty order against a person if satisfied that the person has committed a pecuniary penalty contravention against **section 156 157**. 30
- (2) Proceedings under this section may be commenced within 3 years after the matter giving rise to the contravention was discovered or ought reasonably to have been discovered. 35

- (3) A **pecuniary penalty order** is an order that a person must pay to the Crown a pecuniary penalty that the court determines to be appropriate (a **pecuniary penalty**).

159 Reasonable mistake defence in pecuniary penalty proceedings

- (1) It is a defence to a proceeding for a pecuniary penalty order under **section 157 158**, in connection with a contravention of this Act, if the person proves that— 5
- (a) the contravention was due to a reasonable mistake or due to events outside of the person's control; and
 - (b) the contravention was remedied (to the extent that it could be remedied) as soon as practicable after the contravention was discovered by the person or brought to the person's notice; and 10
 - (c) the person has compensated or offered to compensate any person who has suffered loss or damage by that contravention.
- (2) For the avoidance of doubt, a mistake does not include a mistake of law or a mistake in the interpretation of any enactment or of any document. 15

160 Maximum pecuniary penalty

- (1) The maximum pecuniary penalty that a person can be ordered to pay is,—
- (a) in the case of an individual, \$500,000; or
 - (b) in the case of a body corporate, the greater of— 20
 - (i) \$10 million; and
 - (ii) ~~if the court is satisfied that the contravention resulted in a remedial cost, 3 times the remedial cost (if it can be readily ascertained); and~~
 - (iii) ~~if the remedial cost cannot be readily ascertained, 10% of the turnover of the person and all its interconnected bodies corporate (if any) in each accounting period during which the contravention occurred.~~ 25
 - (ii) either the amount referred to in **subsection (1A)(a)** or, if the remedial cost cannot be readily ascertained, the amount referred to in **subsection (1A)(b)**. 30

(1A) For the purposes of **subsection (1)(b)(ii)**, the amounts are as follows:

- (a) if the court is satisfied that the contravention resulted in a remedial cost that can be readily ascertained, 3 times the remedial cost; or
- (b) if the court is satisfied that the contravention occurred in the course of producing a commercial gain that can be readily ascertained, 3 times the value of any commercial gain resulting from the contravention. 35

- (2) In this section, **remedial cost** means a cost to the Crown or another person in order to remedy the effects of the contravention.

161 Considerations for court in determining amount of pecuniary penalty

In determining an appropriate pecuniary penalty, the court must take into account all relevant matters, including the following:

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- (a) the nature and extent of the contravention:
- (b) the nature and extent of any loss or damage suffered by any person because of the contravention:
- (c) any gains made or losses avoided by the person in contravention:
- (d) the circumstances in which the contravention took place (including whether the contravention was intentional, inadvertent, or caused by negligence).

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162 Rules of civil procedure and civil standard of proof apply

A proceeding under this subpart for a pecuniary penalty order is a civil proceeding and—

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- (a) the rules of court and rules of evidence and procedure for civil proceedings apply; and
- (b) the standard of proof is the standard of proof that applies in civil proceedings; and
- (c) the chief executive may, by order of the court, obtain discovery and administer interrogatories.

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163 Two or more civil penalty contraventions

- (1) This section applies if the same, or substantially the same, conduct of a person constitutes a pecuniary penalty contravention against **section 157** for a contravention of 2 or more provisions of this Act.
- (2) Proceedings may be brought against the person in relation to 2 or more contraventions, but only ~~one~~ 1 civil penalty order may be made against the person in relation to the conduct.

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164 Relationship between pecuniary penalties and criminal liability

- (1) A criminal proceeding for an offence may be commenced against a person in relation to particular conduct whether or not a proceeding for a pecuniary penalty order under **section 157** has been commenced against the person in relation to the same conduct.
- (2) A proceeding under **section 158** against the person in relation to particular conduct is stayed if a criminal proceeding against the person for an offence in relation to the same conduct results in conviction.

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Subpart 3—Appeals and regulations

Appeals

165 Right of appeal to High Court on question of law

- (1) A person may appeal to the High Court against the following decisions of the Minister if the person is a person in respect of whom the decision was made: 5
 - (a) rejecting an application for a commercial permit under **section 28**:
 - (b) rejecting an application to make a minor extension to the permit area under **section 37**:
 - (c) rejecting an application to extend the duration of a permit under **section 39 or 40**: 10
 - (ca) amending the conditions of a permit under **section 41**:
 - (d) declining to give approval for a transfer under **section 42**:
 - (e) declining to give approval for a change in significant influence under **section 48**:
 - (f) revoking an approval for a change in significant influence under **section 49**: 15
 - (g) revoking a permit under **section 55**:
 - (h) granting (including provisionally granting) or rejecting an application to surrender all or part of a permit under **section 58**.
- (2) An appeal under this section may only be on a question of law. 20
- (3) An appeal must be made within 20 working days after the date on which notice of the decision was communicated to the appellant or within any further time that the High Court may allow.
- (4) The High Court may confirm, reverse, or modify the decision.
- (5) Nothing in this section affects the right of any person to apply for judicial review. 25

166 Consequences of appeal to High Court

If an appeal to the High Court is lodged under **section 165**, pending the determination of the appeal,—

- (a) every decision of the Minister appealed against continues in force; and 30
- (b) no person is excused from complying with any of the provisions of this Act on the ground that an appeal is pending.

*Regulations and cost recovery***167 Regulations**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:

Regulations contemplated by Act 5

- (a) providing for anything this Act says may or must be provided for by regulations:

Permits

- (b) prescribing matters relating to the granting of permits, including—
- (i) requirements for permits (including requirements relating to an applicant): 10
 - (ii) matters that the Minister or chief executive must have regard to:
 - (iii) persons or classes of persons whom the Minister or chief executive must consult:
 - (iv) conditions that permits are subject to, the kinds of conditions that the Minister may impose on those permits, or matters to which conditions imposed by the Minister may relate: 15

Prescribed manner

- (c) prescribing the manner in which things may be done, including—
- (i) by whom, when, where, and how the thing must be done: 20
 - (ii) the form that must be used in connection with doing the thing:
 - (iii) what information or other evidence or documents must be provided in connection with the thing:
 - (iv) requirements with which information, evidence, or documents that are provided in connection with the thing must comply: 25
 - (v) that fees must be paid in connection with doing the thing:

Other regulations

- (ca) prescribing matters relating to decommissioning obligations and acceptable security arrangements for the purposes of **Part 3**:
- (d) prescribing information that must be included or provided for the purposes of this Act: 30
- (e) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.
- (2) The Minister may recommend regulations under **subsection (1)(b)** only if—
- (a) the Minister has consulted any persons that the Minister considers are likely to be significantly affected by the regulations; and 35

- (b) the Minister is satisfied that the regulations are necessary or desirable after having regard to the purpose of this Act and to the relevant costs and benefits.
- (3) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 5
- 168 Regulations relating to fees and levies**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations—
 - (a) imposing a levy on permit holders under this Act for the purpose of recovering all or part of the reasonable direct and indirect costs of administering this Act: 10
 - (b) specifying the permit holders, or classes of permit holders, who are liable to pay the levy:
 - (c) imposing a levy on ORE transmission infrastructure owners for the purpose of recovering all or part of the reasonable direct and indirect costs of administering this Act as it relates to decommissioning of ORE transmission infrastructure: 15
 - (d) specifying the ORE transmission infrastructure owners, or classes of ORE transmission infrastructure owners, who are liable to pay the levy:
 - (e) specifying the levy, or how the levy or rates of levy are calculated: 20
 - (f) specifying when and how the levy is to be paid:
 - (g) including in the levy, or providing for the inclusion in the levy, any shortfall in recovering the actual costs:
 - (h) to refund, or provide for refunds of, any over-recovery of the actual costs: 25
 - (i) requiring the payment to the chief executive of fees in connection with—
 - (i) an application or a request to the Minister or chief executive to perform or exercise any function, duty, or power under this Act:
 - (ii) the performance or exercise of any other function, duty, or power under this Act: 30
 - (j) prescribing the amounts of the fees referred to in **paragraph (i)** or the manner in which those fees are to be ascertained:
 - (k) providing for waivers, discounts, or refunds of the whole or any part of a levy or fee for any case or class of cases. 35
- (2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

169 Chief executive or Minister may refuse to act if fee not paid

The chief executive or the Minister (as applicable) may refuse to perform or exercise a function, duty, or power under this Act until the fee prescribed by the regulations is paid.

170 Fees and levies recoverable as debt due

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An unpaid fee or levy may be recovered by the chief executive in a court of competent jurisdiction as a debt due to the Crown.

171 Interest on unpaid levy

(1) If a person does not fully pay, by the due date, any levy payable under this Act (the **original amount**), the chief executive may make a written demand for the payment of interest on the part of the original amount that remains unpaid. 10

(2) The person is liable for the interest payable and the interest must be calculated for every month or part of a month after the due date during which the original amount remains unpaid in full.

(3) Interest must be calculated in accordance with the following formula: 15

$$a = (b \times c) \div 12$$

where—

a is the interest payable

b is any part of the original amount that remains unpaid at the end of the month for which the interest is calculated 20

c is the taxpayer's paying rate, as defined in section 120C of the Tax Administration Act 1994.

(4) Any payment the chief executive receives or applies on account of the person's liability to pay an original amount must first be applied towards payment of the interest. 25

Compare: 1991 No 70 s 99J

Part 5**Amendments to other Acts**

Subpart 1—Amendments to Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

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172 Principal Act

This subpart amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

173 Section 4 amended (Interpretation)

- (1) In section 4(1), definition of **accepted decommissioning plan**, after “section 100B”, insert “or **100F**”.
- (2) In section 4(1), definition of **non-notified activity**, paragraph (c), after “section 38(3)”, insert “or **38C**”.

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174 Section 29E amended (Decommissioning plans)

- (1) In section 29E(1)(a), after “section 100A(2)”, insert “or **100E(2)**”.
- (2) In section 29E(1)(b), after “section 100B(1)(a)”, insert “or **100F(1)(a)**”.
- (3) In section 29E(1)(c), after “section 100B(1)(b)”, insert “or **100F(1)(b)**”.

175 New sections 38A to 38C inserted

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After section 38, insert:

38A Applicants for marine consents related to ORE generation infrastructure activities must hold permit under Offshore Renewable Energy Act 2024

- (1) This section applies to an applicant for a marine consent for any ORE generation infrastructure activities (excluding decommissioning activities) within the meaning of the Offshore Renewable Energy Act **2024**.
- (2) The applicant must be the permit holder of a current feasibility permit or commercial permit granted under the Offshore Renewable Energy Act **2024** that applies to the area to which the consent applies, and the details of the feasibility or commercial permit must be provided in the application.
- (3) A consent authority may, at any time, determine that the application is incomplete if the applicant does not comply with **subsection (2)**.

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Guidance note

See also **sections 12 and 144** of the Offshore Renewable Energy Act **2024**, which prohibit a person from giving effect to a marine consent by undertaking ORE generation infrastructure activities unless the person is a holder of a commercial permit under that Act.

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38B Marine consents related to ORE generation infrastructure activities cancelled if commercial permit under Offshore Renewable Energy Act 2024 expires or is revoked or surrendered in full

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- (1) This section applies to a marine consent for any ORE generation infrastructure activities (excluding decommissioning activities) within the meaning of the Offshore Renewable Energy Act **2024**.
- (2) The consent is automatically cancelled if and when the holder of the consent ceases to be the permit holder of a current commercial permit granted under the Offshore Renewable Energy Act **2024** that relates to the area subject to the consent by reason of the expiry or revocation or surrender in full of the commercial permit.

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38C Application for decommissioning of offshore renewable energy infrastructure

- (1) If an application for a marine consent relates to an activity to decommission ORE infrastructure within the meaning of that term in the Offshore Renewable Energy Act **2024**,— 5
- (a) the application must include an accepted decommissioning plan that covers the activity for the purposes of this Act; and
 - (b) the proposed carrying out of the activity must be in accordance with that plan.
- (2) *See sections 100E to 100H* (which relate to assessment, acceptance, and amendment of the decommissioning plan). 10

176 New sections 100E to 100H inserted

After section 100D, insert:

100E Submitting decommissioning plan for offshore renewable energy infrastructure

- (1) The owner or operator of any ORE infrastructure within the meaning of the Offshore Renewable Energy Act **2024** may submit a decommissioning plan to the Environmental Protection Authority for acceptance. 15
- (2) The decommissioning plan must—
- (a) identify the infrastructure that is to be decommissioned; and 20
 - (b) fully describe how it is to be decommissioned; and
 - (c) if it is a revised decommissioning plan referred to in **section 100G**, identify the changes from the accepted decommissioning plan that it is intended to replace; and
 - (d) include any other information required by the regulations. 25
- (3) The regulations may elaborate on what information is required to be included in the plan under **subsection (2)(a) to (c)**.

100F Assessment and acceptance of decommissioning plan for offshore renewable energy infrastructure

- (1) When a decommissioning plan is submitted under **section 100E**, the Environmental Protection Authority must— 30
- (a) deal with the plan in accordance with the process prescribed by the regulations; and
 - (b) assess the plan against the criteria prescribed by the regulations.
- (2) Having assessed the plan, the EPA must,— 35

<p>(a) if it is satisfied that the plan meets those criteria, accept the plan as the accepted decommissioning plan for the infrastructure to which it relates; or</p> <p>(b) otherwise refuse to accept the plan.</p>	
(3) To avoid doubt, the EPA may refuse to accept a plan if it considers that it does not have adequate information to determine whether it meets the criteria.	5
<p>(4) The EPA must give to the owner or operator of the infrastructure—</p> <p>(a) written notice of its decision under subsection (2); and</p> <p>(b) if it refuses to accept the plan, written reasons for that decision.</p>	
100G Amendment of accepted decommissioning plan for offshore renewable energy infrastructure	10
(1) If the owner or operator of any ORE infrastructure wishes to amend the decommissioning plan accepted under section 100F (the current plan), it may submit a revised decommissioning plan to the Environmental Protection Authority under section 100E .	15
<p>(2) If the EPA accepts the revised plan under section 100F(2)(a),—</p> <p>(a) the current plan ceases to be the accepted decommissioning plan; and</p> <p>(b) the revised plan becomes the accepted decommissioning plan in its place.</p>	
100H Requirement for public consultation on decommissioning plan for offshore renewable energy infrastructure	20
(1) Regulations made for the purposes of section 100F must provide for public consultation in relation to a decommissioning plan that has been submitted for acceptance.	
<p>(2) However, in relation to a revised decommissioning plan referred to in section 100G, the regulations may provide for either of the following:</p> <p>(a) that public consultation is required only in relation to the changes from the current plan (as defined in section 100G) to the revised plan; or</p> <p>(b) that public consultation is not required if the EPA is satisfied that the effect on the environment and existing interests of implementing the revised decommissioning plan would not be materially different from, or would be less than, the effect of implementing the current plan.</p>	25 30
<p>(3) Regulations are to be regarded as providing for public consultation in relation to a plan if the regulations—</p> <p>(a) require the EPA to publicly notify the plan; and</p> <p>(b) allow any person who wishes to make a submission about the plan a reasonable opportunity to do so; and</p>	35

- (c) require the owner or operator of the infrastructure to consider each submission and—
 - (i) amend the plan in response to the submission; or
 - (ii) explain to the EPA why it does not propose to amend the plan in response to the submission.

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177 Schedule 1 amended

In Schedule 1,—

- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Subpart 1A—Amendments to Fast-track Approvals Act 2024

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177A Principal Act

This subpart amends the Fast-track Approvals Act 2024.

177B Section 5 amended (Meaning of ineligible activity)

- (1) In section 5(1)(m), after “section 38(3)”, insert “or **38C(1)**”.
- (2) Replace section 5(1)(n) with:

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- (n) an ORE infrastructure activity as defined in **section 4** of the Offshore Renewable Energy Act **2024** (whether under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 or the Resource Management Act 1991) unless the applicant is the holder of a current feasibility permit or commercial permit under the Offshore Renewable Energy Act **2024** in respect of the ORE generation infrastructure activities that comprise all or part of the development.

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Subpart 1B—Amendment to Fire and Emergency New Zealand Act 2017**177C Principal Act**

This subpart amends the Fire and Emergency New Zealand Act 2017.

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177D Section 12 amended (Additional functions of FENZ)

In section 12(5), definition of **offshore marine structure**, after paragraph (a), insert:

- (aa) ORE infrastructure (within the meaning of **section 4** of the Offshore Renewable Energy Act **2024**); and

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Subpart 2—Amendments to Resource Management Act 1991**178 Principal Act**

This subpart amends the Resource Management Act 1991.

179 New sections 88AA and 88AB inserted

After section 88, insert:

88AA Applicants for resource consents related to ORE generation infrastructure activities must hold permit under Offshore Renewable Energy Act 2024	5
(1) This section applies to an applicant for a resource consent for any ORE generation infrastructure activities (<u>excluding decommissioning activities</u>) within the meaning of the Offshore Renewable Energy Act 2024 .	
(2) The applicant must be the permit holder of a current feasibility permit or commercial permit Act granted under the Offshore Renewable Energy Act 2024 that applies to the area to which the consent applies, and the details of the feasibility or commercial permit must be provided in the application.	10
(3) A consent authority may, at any time, determine that the application is incomplete if the applicant does not comply with subsection (2) .	
Guidance note	15
See also sections 12 and 144 of the Offshore Renewable Energy Act 2024 , which prohibit a person from giving effect to a resource consent by undertaking ORE generation infrastructure activities unless the person is a holder of a commercial permit under that Act.	
88AB Resource consents related to ORE generation infrastructure activities cancelled if commercial permit under Offshore Renewable Energy Act 2024 expires or is revoked or surrendered in full	20
(1) This section applies to a resource consent for any ORE generation infrastructure activities (<u>excluding decommissioning activities</u>) within the meaning of the Offshore Renewable Energy Act 2024 .	25
(2) The consent is automatically cancelled if and when the holder of the consent ceases to be the permit holder of a current commercial permit granted under the Offshore Renewable Energy Act 2024 that relates to the area subject to the consent by reason of the expiry or revocation or surrender in full of the commercial permit.	30

180 Schedule 12 amended

In Schedule 12,—

- (a) insert the Part set out in **Schedule 3** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Schedule 1

Transitional, savings, and related provisions

s 5

Part 1

Provisions relating to this Act as enacted

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~~There are no transitional, savings, or related provisions in this Act as enacted.~~

1 Pre-commencement consultation

- (1) Consultation for the purpose of making regulations under **section 167** that is carried out at any time before the date on which this Act comes into force is treated as consultation for the purposes of **section 167(2)**.
- (2) Any other consultation about a matter requiring consultation under this Act that is carried out at any time before the date on which this Act comes into force is to be treated as consultation for the purposes of this Act.

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Schedule 2
New Part 3 inserted into Schedule 1 of Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

s 177

Part 3		5
Provisions relating to Offshore Renewable Energy Act 2024		
4	Stay on applications made before permit granted under Offshore Renewable Energy Act 2024	
(1)	This clause applies to an application for a marine consent in respect of any off-shore renewable energy generation infrastructure activities, within the meaning of the Offshore Renewable Energy Act 2024 , that is made before the commencement of that Act.	10
(2)	The application is stayed, and cannot be granted, until the applicant is the holder of a current feasibility permit or commercial permit that has been granted under that Act in respect of those activities.	15

Schedule 3
New Part 8 inserted into Schedule 12 of Resource Management Act
1991

s 180

Part 8
Provisions relating to Offshore Renewable Energy Act 2024

- 48 Stay on applications made before permit granted under Offshore Renewable Energy Act 2024** 5
- (1) This clause applies to an application for a resource consent in respect of any offshore renewable energy generation infrastructure activities, within the meaning of the Offshore Renewable Energy Act 2024, that is made before the commencement of that Act. 10
- (2) The application is stayed, and cannot be granted, until the applicant is the holder of a current feasibility permit or commercial permit that has been granted under that Act in respect of those activities. 15

Legislative history

9 December 2024
17 December 2024

Introduction (Bill 102–1)
First reading and referral to Transport and Infrastructure
Committee