

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

Government Bill

As reported from the Local Government and Environment Committee

Commentary

Recommendation

The Local Government and Environment Committee has examined the Exclusive Economic Zone and Continental Shelf (Environmental Effects) (Transitional Provisions) Amendment Bill, and recommends that it be passed with the amendments shown.

Introduction

The Exclusive Economic Zone and Continental Shelf (Environmental Effects) (Transitional Provisions) Amendment Bill seeks to amend section 162 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. Section 162 outlines transitional provisions for existing operators undertaking petroleum mining activities involving structures or pipelines which require a marine consent from the Environmental Protection Authority (EPA).

Section 162(4) of the Act specifies that existing mining operations may continue only until the expiration of the operator's permits or privileges as they were on the day before the Act came into force. To continue operating following the expiry of these permits or privileges, operators must have received a marine consent. The Act does not permit an operator to continue beyond their permit or privilege while a consent application is being considered by the EPA.

The bill would allow operators to continue mining while their consent application was in progress and any appeals were determined. The purpose of the bill is to provide greater certainty to petroleum mining companies operating in the Exclusive Economic Zone, and to help their transition to the 2012 Act's regulations.

This commentary covers the amendments that we recommend to the bill.

Marine consent application deadline

We recommend amending clause 4, new section 162(5), to specify that existing petroleum operators must lodge a marine consent application, and have it accepted as complete by the EPA, at least 9 months before the expiry of their mining permit or privilege. We note that if an application for a marine consent for an activity to which this section applies was accepted as complete by the EPA in 2015 before the date of commencement of this Act, it is deemed to apply in that case.

We consider that this amendment would provide adequate time to avoid disruption to mining operations, especially as the marine consent process will be well established and the Act's provisions well known by the next expiry date of an operator's mining licence in 2025. We also believe it would address any concerns about an open-ended timeframe for mining activities occurring in the absence of an approved marine consent.

Mining without a marine consent

We recommend further amending clause 4, new section 162(5), to clarify that existing mining activities past the expiry of a mining permit or privilege could continue until the application was decided by the EPA and appeals were determined, provided that an application was lodged and accepted as complete by the EPA, in accordance with the application deadline.

We believe this provision would help to prevent the possibility of an operator being forced to cease operations while an application was in progress.

Appendix

Committee process

The Exclusive Economic Zone and Continental Shelf (Environmental Effects) (Transitional Provisions) Amendment Bill was referred to the committee on 26 February 2015. The closing date for submissions was 9 April 2015. We received and considered five submissions from interested groups and individuals, and heard from two submitters.

We received advice from the Ministry for the Environment and the Parliamentary Counsel Office.

Committee membership

Scott Simpson (Chairperson)

Matt Doocey

Paul Foster-Bell

Julie Anne Genter

Joanne Hayes

Tutehounuku Korako

Ron Mark

Todd Muller

Eugenie Sage

Su'a William Sio

Dr Megan Woods

Gareth Hughes replaced Julie Anne Genter for this item of business.

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

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Dr Nick Smith

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

Government Bill

Contents

	Page
1 Title	1
2 Commencement	1
3 Principal Act	1
4 Section 162 amended (Existing petroleum mining activities involving structures or pipelines)	2

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Exclusive Economic Zone and Continental Shelf (Environmental Effects) (Transitional Provisions) Amendment Act **2015**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act** 10
This Act amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the **principal Act**).

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

cl 4

4 Section 162 amended (Existing petroleum mining activities involving structures or pipelines)

Replace section 162(5) with:

- (5) ~~Despite subsection (4), if an application for a marine consent for an activity to which this section applies is lodged with the Environmental Protection Authority before the end of the term of the permit or privilege as it was on the day before this Act came into force, the activity may continue without a marine consent until—~~ 5
- (a) ~~the application is decided under section 62 and any appeals are determined; or~~ 10
- (b) ~~the application is returned as incomplete under section 41 and any objections and appeals are determined.~~
- (6) ~~If the application for a marine consent described in **subsection (5)(b)** was returned by the EPA under section 41, **subsection (5)** applies to any new application that replaces the returned application.~~ 15
- (7) ~~Subsections (4) and **(5)** override section 20.~~

Replace section 162(5) with:

- (5) Despite subsection (4), if an application for a marine consent for an activity to which this section applies is lodged with and accepted as complete by the Environmental Protection Authority no less than 9 months before the end of the term of the permit or privilege as it was on the day before this Act came into force, the activity may continue without a marine consent until the application is decided under section 62 and any appeals are determined. 20
- (6) Subsections (4) and **(5)** override section 20.
- (7) If an application for a marine consent for an activity to which this section applies was accepted as complete by the Environmental Protection Authority in 2015 before the date of commencement of the **Exclusive Economic Zone and Continental Shelf (Environmental Effects) (Transitional Provisions) Amendment Act 2015** (whether or not decided under section 62 before that date), **subsection (5)** is deemed also to apply in that case. 25
30

Legislative history

18 February 2015
26 February 2015

Introduction (Bill 5–1)
First reading and referral to Local Government and Environment Committee

Wellington, New Zealand:

Published under the authority of the House of Representatives—2015