

# Energy Resources Levy Amendment Bill

Government Bill

## Explanatory note

### General policy statement

The key purpose of this Bill is to ensure that the Crown receives a fair financial return for its natural gas (now commonly referred to as fossil gas). This purpose aligns with Principle 8 of the Government's Resource Strategy *Responsibly Delivering Value – A Minerals and Petroleum Resource Strategy for Aotearoa New Zealand: 2019–2029*: the Crown receives a fair financial return for its minerals and petroleum. Wider petroleum legislation, including the Petroleum Act 1937 and the Crown Minerals Act 1991, which superseded it, also specifically grant rights to mine Crown owned minerals in exchange for a fair financial return.

There have been inconsistent approaches to achieving a fair financial return on the Crown's natural gas resources, with royalty rates depending on when licences or permits were granted for gas discoveries. This is not uncommon and reflects the practice at the time those licences were granted. Licences granted under the Petroleum Act 1937 as a result of a pre-1 January 1986 discovery (**pre-1986 licences**) are subject to 5–10% royalty rates. This compares with post-1 January 1986 licences or permits granted under the Crown Minerals Act 1991 that are subject to royalty rates of 12.5% or 20%.

The Energy Resources Levy Act 1976 (the **Act**) imposes a levy on certain energy resources produced in New Zealand. To ensure a fair financial return to the Crown, the Act requires holders of pre-1986 licences to pay the levy on top of the 5–10% royalty rate. The levy is not payable on natural gas produced as a result of a discovery of natural gas made on or after 1 January 1986.

This Bill amends the Act, inserting *new section 6(3)*, which provides that the levy exemption does not apply to natural gas produced on or after the commencement of that subsection from any land to which a licence relates if the licence was granted in relation to a discovery of natural gas that was made before 1 January 1986. The amendment will ensure that new gas production from deposits within pre-1986

licence areas cannot be considered new gas discoveries for the purposes of the levy exemption in the Act.

### Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2023&no=249>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause and provides that the Bill comes into force on the day after Royal assent.

*Clause 3* states that this Bill amends the Energy Resources Levy Act 1976 (the Act).

*Clause 4* inserts *new section 2A* into the Act. *New section 2A* provides that the transitional, savings, and related provisions set out in *new Schedule 1* (inserted by *clause 6*) have effect according to their terms.

*Clause 5* relates to licences granted under the Petroleum Act 1937 (or under that Act as applied by section 4 of the Continental Shelf Act 1964). *Clause 5* amends section 6 of the Act to provide that the exemption from payment of a levy on natural gas described in section 6(1)(a) of the Act does not apply to any natural gas produced from any land to which a licence relates if the licence was granted in relation to a discovery of natural gas made before 1 January 1986 (even if the licence was extended on or after that date).

*Clause 6* inserts *new Schedule 1*, which sets out transitional, savings, and related provisions arising from the Bill. *Clause 1 of new Schedule 1* provides that in that schedule, commencement date means the date on which the amendment to section 6 of the Act is made by *clause 5* of this Bill. *Clause 2 of new Schedule 1* provides that the amendment does not apply retrospectively. *Clause 3 of new Schedule 1* validates any relevant levy payments on natural gas made before the commencement date.

*Hon Dr Megan Woods*

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Energy Resources Levy Amendment Act **2023**.

**2 Commencement**

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

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**3 Principal Act**

This Act amends the Energy Resources Levy Act 1976.

**Part 1****Amendments relating to sections****4 New section 2A inserted (Transitional, savings, and related provisions) 5**

After section 2, insert:

**2A Transitional, savings, and related provisions**

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

**5 Section 6 amended (Exemptions from levy) 10**

After section 6(2), insert:

- (3) The exemption in subsection (1)(a) does not apply to any natural gas produced from any land to which a licence relates if the licence was granted in relation to a discovery of natural gas made before 1 January 1986 (even if the licence was extended on or after that date). 15

**Part 2****Amendment relating to schedule****6 New Schedule 1 inserted**

Insert the **Schedule 1** set out in the **Schedule** of this Act as the first schedule to appear after the last section of the principal Act. 20

**Schedule**  
**New Schedule 1 inserted**

s 6

**Schedule 1**  
**Transitional, savings, and related provisions**

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s 2A

**Part 1**

**Provisions relating to Energy Resources Levy Amendment Act 2023**

**1 Meaning of commencement date**

In this schedule, **commencement date** means the date on which the amendment to section 6 of this Act was made by **section 5** of the Energy Resources Levy Amendment Act **2023**.

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**2 Amended section 6 does not apply retrospectively**

**Section 6(3)**, as inserted by **section 5** of the Energy Resources Levy Amendment Act **2023**, applies to natural gas produced on or after the commencement date.

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**3 Validation of levy payments made before commencement date**

(1) This clause applies if, before the commencement date,—

(a) a levy was paid on natural gas; and

(b) the exemption in section 6(1)(a) applied or might have applied to that natural gas.

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(2) The levy was properly payable by the person who paid it.

(3) Money received by the Secretary in payment of the levy is and always has been lawfully collected and applied.