

New Zealand Bill of Rights (Right to Sustainable Environment) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill provides for the addition of the right to a sustainable environment in the New Zealand Bill of Rights Act 1990.

This Bill reflects a growing international recognition of the link between human rights and the existence of a sustainable environment within which to enjoy and exercise those rights. In October 2021, the Human Rights Council of the United Nations recognised the human right to a clean, healthy, and sustainable environment (see A/HRC/RES/48/13). This Bill will replicate the wording from that resolution, as a leading international formulation of the right to a sustainable environment.

Including the right to a sustainable environment as a protected right under New Zealand law is also consistent with tikanga Māori concepts of the connection between ngā tāngata and te taiao. Environmental interests are recognised in several statutes including the Environment Act, the Resource Management Act, the Climate Change Response Act, and the Local Government Act. The Supreme Court in *Trans-Tasman Resources Limited v The Taranaki-Whanganui Conservation Board* [2021] NZSC 127 also upheld the Court of Appeal finding that environmental considerations under tikanga Māori are relevant principles of law in New Zealand.

The inclusion of this right in the New Zealand Bill of Rights Act does not and will not limit any additional affirmation of the rights of the natural world or specific natural features in other legislation.

Other features of the New Zealand Bill of Rights Act will remain unchanged. The inclusion of this right means that the right to a clean, healthy, and sustainable environment will be subject to the same test of justified limitation as other protected rights.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides for this Bill to come into force on the day after Royal assent.

Clause 3 identifies the New Zealand Bill of Rights Act 1990 (the **principal Act**) as the Act being amended by this Bill.

Clause 4 inserts a *new section 18A* into the principal Act to provide a right to a clean, healthy, and sustainable environment.

Hon James Shaw

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the New Zealand Bill of Rights (Right to Sustainable Environment) Amendment Act **2023**.
- 2 Commencement** 5
This Act comes into force on the day after the date of Royal assent.
- 3 Principal Act**
This Act amends the New Zealand Bill of Rights Act 1990.
- 4 New section 18A and cross-heading inserted** 10
After section 18, insert:

Right to sustainable environment

18A Right to sustainable environment

Everyone has the right to a clean, healthy, and sustainable environment.