

Resource Management (Restricted Duration of Certain Discharge and Coastal Permits) Amendment Bill

Member's Bill

Explanatory note

General policy statement

The purpose of this Bill is to amend section 107 of the Resource Management Act, relating to granting discharge permits and coastal permits.

Section 107(2)(a) allows for discharges to water where “exceptional circumstances” justify it. This Bill seeks to limit the period for which such consent can be issued in “exceptional circumstances” to a maximum of 5 years.

The current law allows for virtually unlimited pollution of waterways because “exceptional circumstances” has not been defined or limited and consents may currently be issued for a period of up to 35 years. This has resulted in consents being granted for long-term pollution of waterways under a provision which was clearly not intended by Parliament to apply this way. As noted by the Environment Court (Decision No. A162/2003), exceptional circumstances “connotes something out of the ordinary”. Yet the current law has allowed permits for normal or regular discharges to be readily granted as “exceptional circumstances”. It effectively grants rights to pollute, which is contrary to the principles of sustainable management that guide the Resource Management Act.

The most extreme example is the use of the provision to justify the pollution of the Tarawera River since 1995.

A 5-year maximum would allow circumstances which were genuinely exceptional to be permitted, but within a defined timeframe, thus creating certainty. It would also require industry and local authorities to improve their environmental performance in regards to discharge of pollutants into coastal waters.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause which provides that the Act comes into force on the day after the date on which it receives the Royal assent.

Clause 3 sets out the purpose of the Bill.

Clause 4 amends the Resource Management Act 1991 (the **principal Act**).

Clause 5 amends section 107 by inserting subsection (2A), which limits the period for which a discharge permit or a coastal permit can be issued pursuant to section 107(2)(a) to a maximum of 5 years.

Catherine Delahunty

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Resource Management (Restricted Duration of Certain Discharge and Coastal Permits) Amendment Act **2012**.

2 Commencement

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

3 Purpose

The purpose of this Act is to limit the period of time for which a discharge permit or a coastal permit can be issued pursuant to section 107(2)(a) of the Resource Management Act 1991.

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4 Principal Act

This Act amends the Resource Management Act 1991 (the **principal Act**).

5 Section 107 amended (Restriction on grant of certain discharge permits)

After section 107(2), insert:

- (2A) Despite section 123, the maximum period for which a discharge permit or a coastal permit may be issued pursuant to subsection (2)(a) is 5 years from the date of commencement of the consent under section 116.

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