



Resource Management Amendment Act 2008

Public Act 2008 No 95
Date of assent 27 September 2008
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Resource Management Amendment Act 2008.

2 Commencement

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

3 Principal Act amended

This Act amends the Resource Management Act 1991.

4 Interpretation

Section 2(1) is amended by repealing the definition of **aquaculture management area** and substituting the following definition:

“**aquaculture management area**—

“(a) means an area established as an aquaculture management area in accordance with section 165AB; and

“(b) includes part of an aquaculture management area”.

5 Restrictions on aquaculture activities in coastal marine area and on other activities in aquaculture management areas

(1) Section 12A is amended by inserting the following subsection after subsection (1):

“(1A) No person may apply for a coastal permit to occupy a coastal marine area for the purpose of an aquaculture activity except in an aquaculture management area in a regional coastal plan.”

(2) Section 12A(3) is repealed.

6 Consideration of applications

Section 104(3)(c) is amended by repealing subparagraph (i) and substituting the following subparagraph:

“(i) section 107, 107A, 107E, or 217.”

7 New heading and section 107E inserted

The following heading and section are inserted after section 107D:

“Decisions on applications relating to non-aquaculture activities

“107E Decision on application to undertake non-aquaculture activity in aquaculture management area

“(1) This section applies when a person applies for a coastal permit to undertake an activity in an aquaculture management area and the activity is not an aquaculture activity.

“(2) The consent authority may grant the permit only to the extent to which the activity is compatible with the aquaculture activities that may be undertaken in the aquaculture management area.”

8 Interpretation

The definition of **available space** in section 165A(a) is amended by repealing subparagraph (vi) and substituting the following subparagraph:

“(vi) a coastal permit to occupy space in an aquaculture management area for activities that are not aquaculture activities if the activities authorised by the coastal permit are not compatible with aquaculture activities; and”.

9 New section 165AB inserted

The following section is inserted after section 165A:

“165AB Establishment of aquaculture management areas

An area may be established as an aquaculture management area only in the following ways:

- “(a) by being included in a regional coastal plan or proposed regional coastal plan in accordance with section 165C:
- “(b) by becoming an aquaculture management area under section 44 or 45 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.”

10 New sections 165BB and 165BC inserted

The following sections are inserted after section 165B:

“165BB Some applications for coastal permits must be cancelled

A consent authority must cancel an application for a coastal permit for the occupation of space in the coastal marine area for the purpose of aquaculture activities if the application—

- “(a) is made after 9 May 2006 but before the commencement of the Resource Management Amendment Act 2008; and
- “(b) does not relate to an aquaculture management area in a regional coastal plan as at the commencement of the Resource Management Amendment Act 2008.

“165BC Certain applications not to be processed or determined until aquaculture management area established in regional coastal plan

- “(1) This section applies to applications for coastal permits for the occupation of space in the coastal marine area for the purpose of aquaculture activities made on or after 1 January 2005 but before 10 May 2006, being applications that (at the time of being made) did not relate to an aquaculture management area in a regional coastal plan.
- “(2) A consent authority must not process or determine an application until such time as the area to which the application relates becomes an aquaculture management area in a regional coastal plan.
- “(3) An application referred to in subsection (2) must be processed and determined under the rules in the regional coastal plan

and any proposed regional coastal plan at the time the consent authority resumes processing the application.

- “(4) However, a consent authority must not grant a coastal permit to occupy space for aquaculture activities in an aquaculture management area that is subject to a reservation relating to commercial fishing, except to a person specified in a notice given by the chief executive under section 186ZK of the Fisheries Act 1996 as the holder of an aquaculture agreement under that Act.
- “(5) An application is deemed to be cancelled on and from the date on which a proposed regional coastal plan is notified under clause 5 of Schedule 1 after the commencement of the Resource Management Amendment Act 2008 and to the extent that the application relates to an area covered by the plan and the plan provides for an aquaculture management area, but it does not include the area that the application relates to.
- “(6) An application is deemed to be cancelled on and from the day that is 10 years after the commencement of the Resource Management Amendment Act 2008 to the extent that, by that date,—
- “(a) no proposed regional coastal plan covering the area that the application relates to has been notified under clause 5 of Schedule 1; or
 - “(b) a proposed regional coastal plan covering the area that the application relates to has been notified under clause 5 of Schedule 1, but the plan contains no aquaculture management areas.
- “(7) This section—
- “(a) prevails over Part 7A; but
 - “(b) applies subject to the Maori Commercial Aquaculture Claims Settlement Act 2004.”

11 Provisions about aquaculture management areas

Section 165C is amended by repealing subsection (5).

12 New section 165K substituted

Section 165K is repealed and the following section substituted:

“165K When applications not to be made or granted unless applicant holds authorisation

- “(1) Subsection (2) applies to space in the coastal marine area if—
- “(a) the space is available space and a regional coastal plan does not provide for the allocation of the space by an alternative to an offer of authorisations; or
 - “(b) the space has been identified by a regional council as space for allocation to the trustee under section 9(1) of the Maori Commercial Aquaculture Claims Settlement Act 2004.
- “(2) A person must not apply for, and a consent authority must not grant, a coastal permit authorising occupation of the space or identified space (as the case may be) for aquaculture activities unless the person is the holder of an authorisation for the space.
- “(3) Subsection (4) applies to space in a coastal marine area and the regional coastal plan provides for the allocation of authorisations of space by public tender or another method.
- “(4) A person must not apply for, and a regional council must not grant, a coastal permit authorising occupation of the space for activities that are not aquaculture activities unless the person is a holder of an authorisation for the space.”

13 Schedule 1A amended

- (1) Clause 1 of Schedule 1A is amended by inserting the following subclause before subclause (1):

“(1AA) This Schedule applies to the preparation of, and changes to, a regional coastal plan to the extent that the plan provides for aquaculture activities.”

- (2) Schedule 1A is amended by inserting the following clause after clause 1:

“1A Proposed regional coastal plan or proposed change to regional coastal plan must not describe certain areas as aquaculture management areas

- “(1) A proposed regional coastal plan or a proposed change to a regional coastal plan must not describe an area as an aquaculture management area if the area comprises or includes space—
- “(a) that is subject to an application—

- “(i) to which section 25(3) of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 applies; and
- “(ii) made by a person to whom section 25(2) of that Act applies; and
- “(iii) which has not been determined or withdrawn; or
- “(b) that is, or may be, subject to an application—
 - “(i) referred to in section 26(1)(b) of that Act; and
 - “(ii) made by a person referred to in section 26(1)(a) of that Act; and
 - “(iii) where an application has been made, it has not been determined or withdrawn; or
- “(c) that is subject to an application to which section 50(2) of that Act applies and the application has not been determined or withdrawn; or
- “(d) that was subject to an application to which section 50(2) of that Act applied and—
 - “(i) the coastal permit applied for has been granted; and
 - “(ii) the coastal permit has not lapsed or been cancelled or surrendered; but
 - “(iii) the application for a marine farming permit or spat catching permit referred to in section 50(3) of that Act has not been made or has been made but has not been determined or withdrawn.
- “(2) To avoid doubt, subclause (1) does not prevent a proposed regional coastal plan or a proposed change to a regional coastal plan describing as an aquaculture management area an area to which a deemed coastal permit under the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 relates.
- “(3) Subclause (1) does not apply to a proposed regional coastal plan or a proposed change to a regional coastal plan if the proposed plan or proposed change has been notified under clause 5 or 26 of Schedule 1 before the commencement of the Resource Management Amendment Act 2008.
- “(4) If a proposed regional coastal plan or a proposed change to a regional coastal plan describes an area as an aquaculture management area in breach of subclause (1), then (to avoid doubt)—

- “(a) the area is not, and is not to be treated as, an aquaculture management area; and
 - “(b) the breach does not invalidate the rest of the plan to the extent that the rest of the plan is not inconsistent with the area not being an aquaculture management area.”
- (3) Clause 2 of Schedule 1A is repealed and the following clause substituted:
- “2 Assessment of undue adverse effects on fishing**
- “(1) The regional council must not notify a proposed regional coastal plan or a proposed change to a regional coastal plan under clause 5 or 26 of Schedule 1 until—
- “(a) the chief executive of the Ministry of Fisheries has made an aquaculture decision under section 186E of the Fisheries Act 1996 in relation to any area described in the plan as an aquaculture management area; and
 - “(b) the regional council has complied with clause 3 of this Schedule.
- “(2) However, subclause (1) does not apply in relation to an area that is—
- “(a) subject to a deemed coastal permit under section 10, 20, or 21 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004; or
 - “(b) an aquaculture management area in relation to which a determination has already been made under section 186E of the Fisheries Act 1996 or section 38 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.
- “(3) Subclause (2)(b) does not include a determination to which section 186H(1)(d)(ii) of the Fisheries Act 1996 or section 41(1)(d)(ii) of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 applies, if the proposed regional coastal plan or proposed change to a regional coastal plan proposes to revoke or amend the rule on which the determination was based.”
- (4) Clause 3(4) of Schedule 1A is amended by omitting “, and any other stocks or species not subject to the quota management system”.
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2008 No 95

**Resource Management Amendment
Act 2008**

Legislative history

23 September 2008

Divided from Aquaculture Legislation Amendment
Bill (Bill 239–2) by committee of the whole House

23 September 2008

Third reading

27 September 2008

Royal assent

This Act is administered by the Ministry for the Environment.
