



Resource Management Amendment Act 2016

Public Act 2016 No 68
Date of assent 17 October 2016
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 2016.

2 Commencement

This Act comes into force on 1 March 2017.

3 Principal Act

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

4 Section 2 amended (Interpretation)

In section 2(1), insert in its appropriate alphabetical order:

lawyer has the meaning given to it by section 6 of the Lawyers and Conveyancers Act 2006

5 Section 250 amended (Appointment of Environment Judges and alternate Environment Judges)

After section 250(4), insert:

- (5) The Attorney-General must publish information explaining his or her process for—
 - (a) seeking expressions of interest for the appointment of Environment Judges and alternate Environment Judges; and
 - (b) nominating a person for appointment as an Environment Judge or an alternate Environment Judge.
- (6) Environment Judges and alternate Environment Judges must not practise as lawyers.

6 New sections 250A and 250B inserted

After section 250, insert:

250A Judge not to undertake other employment or hold other office

- (1) Environment Judges and alternate Environment Judges must not undertake any other paid employment or hold any other office (whether paid or not) without the approval of the Principal Environment Judge.
- (2) An approval under subsection (1) may be given only if the Principal Environment Judge is satisfied that undertaking the employment or holding the office is consistent with the Judge's judicial office.
- (3) However, subsection (1) does not apply to another office if an enactment permits or requires the office to be held by a Judge.

250B Protocol relating to activities of Judges

- (1) The Chief Justice must develop and publish a protocol containing guidance on—
 - (a) the employment, or types of employment, that he or she considers may be undertaken consistent with being an Environment Judge or alternate Environment Judge; and
 - (b) the offices, or types of offices, that he or she considers may be held consistent with being an Environment Judge or alternate Environment Judge.
- (2) The Chief Justice may develop and publish a protocol under subsection (1) only after consultation with the Principal Environment Judge.

7 Section 282 replaced (Power to commit for contempt)

Replace section 282 with:

282 Contempt of court

- (1) This section applies if any person—
 - (a) wilfully insults an Environment Judge, an alternate Environment Judge, an Environment Commissioner, a Registrar of the court, any other officer of the court, any special adviser to the court, or any witness during his or her sitting or attendance in court, or in going to or returning from the court; or
 - (b) wilfully interrupts the proceedings of the court or otherwise misbehaves in court; or
 - (c) wilfully and without lawful excuse disobeys any order or direction of the court in the course of any proceedings.
- (2) If this section applies,—
 - (a) any constable or officer of the court, with or without the assistance of any other person, may, by order of an Environment Judge, take the person into custody and detain him or her until the rising of the court; and
 - (b) the Environment Judge may, if he or she thinks fit, sentence the person to—
 - (i) imprisonment for a period not exceeding 3 months; or
 - (ii) a fine not exceeding \$1,000 for each offence.
- (3) Nothing in this section limits or affects any power or authority of the court to punish any person for contempt of court in any case to which this section does not apply.

Compare: 2011 No 81 s 365

8 New sections 288A to 288F inserted

After section 288, insert:

288A Information regarding reserved judgments

The Principal Environment Judge must, in consultation with the Chief Justice,—

- (a) publish information about the process by which parties to proceedings before the court may obtain information about the status of any reserved judgment in those proceedings; and
- (b) periodically publish information about the number of judgments of the court that he or she considers are outstanding beyond a reasonable time for delivery; and
- (c) publish information about reserved judgments that he or she considers is useful.

288B Recusal guidelines

The Principal Environment Judge must, in consultation with the Chief Justice, develop and publish guidelines to assist Judges to decide if they should recuse themselves from a proceeding.

288C Judge may make order restricting commencement or continuation of proceeding

- (1) A Judge may make an order restricting a person from commencing or continuing civil proceedings in the Environment Court.
- (2) The order may have—
 - (a) a limited effect (a **limited order**); or
 - (b) an extended effect (an **extended order**).
- (3) A limited order restrains a party from continuing or commencing civil proceedings on a particular matter in the Environment Court.
- (4) An extended order restrains a party from continuing or commencing civil proceedings on a particular or related matter in the Environment Court.
- (5) Nothing in this section limits the court's inherent power to control its own proceedings.

288D Grounds for making section 288C order

- (1) A Judge may make a limited order under section 288C if, in proceedings about the same matter in the court, the Judge considers that at least 2 or more of the proceedings are or were totally without merit.
- (2) A Judge may make an extended order under section 288C if, in at least 2 proceedings about any matter considered by the court, the Judge considers that the proceedings are or were totally without merit.
- (3) In determining whether the proceedings are or were totally without merit, the Judge may take into account the nature of any other interlocutory application,

appeals, or criminal prosecutions involving the party to be restrained, but is not limited to those considerations.

- (4) The proceedings concerned must be proceedings commenced or continued by the party to be restrained, whether against the same person or different persons.
- (5) For the purpose of this section and sections 288E and 288F, an appeal in a civil proceeding must be treated as part of that proceeding and not as a distinct proceeding.

288E Terms of section 288C order

- (1) An order made under section 288C may restrain a party from commencing or continuing any civil proceeding (whether generally or against any particular person or persons) of any type specified in the order without first obtaining the leave of the court.
- (2) An order made under section 288C, whether limited or extended, has effect for a period of up to 3 years as specified by the Judge, but the Judge making it may specify a longer period (which must not exceed 5 years) if he or she is satisfied that there are exceptional circumstances justifying the longer period.

288F Procedure and appeals relating to section 288C orders

- (1) A party to any proceeding may apply for a limited order or an extended order.
- (2) A Judge may make an order under section 288C (a **section 288C order**) either on an application under subsection (1) or on his or her own initiative.
- (3) An application for leave to continue or commence a civil proceeding by a party subject to a section 288C order may be made without notice, but the court may direct that the application for leave be served on any specified person.
- (4) An application for leave must be determined on the papers, unless the Judge considers that an oral hearing should be conducted because there are exceptional circumstances and it is appropriate to do so in the interests of justice.
- (5) A Judge's determination of an application for leave is final.
- (6) A section 288C order does not prevent or affect the commencement of a private criminal prosecution in any case.
- (7) The party against whom a section 288C order is made may appeal against the order to the High Court.
- (8) The appellant in an appeal under subsection (7) or the applicant for the section 288C order concerned may, with the leave of the High Court, appeal against the determination of that appeal to the Court of Appeal.
- (9) A court determining an appeal under this section has the same powers as the court appealed from has to determine an application or appeal, as the case may be.

Legislative history

14 September 2016	Divided from Judicature Modernisation Bill (Bill 178–2) as Bill 178–3U
11 October 2016	Third reading
17 October 2016	Royal assent

This Act is administered by the Ministry for the Environment.