

Mr MacDonell

MINISTRY OF THE ENVIRONMENT

ANALYSIS

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A BILL INTITULED

An Act to establish a co-ordinated national policy for safeguarding the environment and to establish a Ministry of the Environment

5 **BE IT ENACTED** by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Ministry of the Environment Act 1971.

10 **2. Interpretation**—In this Act, unless the context otherwise requires,—

15 “Environment” includes but is not limited to the air, the aquatic, including marine, estuarine, and fresh water, and the urban, suburban and rural terrestrial surroundings of New Zealand, whether natural or man-made:

No. 53—1

“Minister” means the Minister of the Environment under this Act:

“Pollution” means the presence in the environment of any contamination, impurity, or other substance or thing which detracts from the enjoyment of the environment, and includes noise. 5

3. Act to bind Crown—This Act shall bind the Crown.

4. Minister of the Environment—(1) The Governor-General from time to time may appoint a member of the Executive Council to hold office during his pleasure as Minister of the Environment. 10

(2) The Minister shall be charged with the general administration of this Act.

(3) Any right or authority which the Minister is authorised to exercise under this or any other enactment shall be exercised by him in the name and on behalf of Her Majesty the Queen. 15

5. Delegation of Minister’s powers—(1) The Minister may from time to time, by writing under his hand, delegate to the Guardian of the Environment, or any other officer, or to the holder for the time being of any office in the Ministry of the Environment, such of his statutory powers as he thinks fit. 20

(2) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister. 25

(3) Any such delegation may be made subject to such restrictions and conditions as the Minister thinks fit, and may be made either generally or in relation to any particular case. 30

(4) Unless and until any such delegation is revoked it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office it shall continue to have effect as if made by the person for the time being holding office as Minister and, in the event of the Guardian of the Environment or other officer to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding the office. 35 40

(5) The fact that the Guardian of the Environment or any other Environmental Officer purports to exercise any power of the Minister shall in the absence of proof to the contrary be sufficient evidence of his authority so to do.

5 **6. Ministry of the Environment**—There shall be a Department of State to be called the Ministry of the Environment.

7. Guardian of the Environment—There shall from time to time be appointed under the State Services Act 1962 a Guardian of the Environment, who shall be the administrative head of the Ministry of the Environment.

10 **8. Appointment of other officers**—There may from time to time be appointed as officers or employees of the Public Service such other officers and employees as may be necessary for the administration of this Act.

15 **9. Protection of Environmental Officers**—No matter or thing done by any Environmental Officer or other employee of the Ministry of the Environment in good faith in the exercise of his powers or in the performance of his duties under this Act shall subject that officer, ranger, or other employee to any personal liability in respect thereof.

20 **10. Functions of the Ministry**—The Ministry of the Environment, under the direction of the Minister, shall have exclusive responsibility for carrying out all matters of national policy affecting the environment which, by this or any other Act (including any subsequent Act) is required to be administered by the Minister.

11. Powers of the Minister, etc.—(1) The Minister may from time to time—

- 30 (a) Carry out investigations into environmental matters;
- (b) Prepare and carry out schemes for preventing, abating, or mitigating air, water, and soil pollution, and other environmental problems;
- (c) Co-ordinate the policies and activities of the Ministry of the Environment and other Government Departments, local authorities, and public bodies in relation to the environment;
- 35 (d) Train Environmental Officers, conduct environmental research, and collect and disseminate information on the environment;

- (e) Prepare and issue plans and publications for the safeguarding and the protection of the environment;
- (f) Make provision for the setting up of such advisory committees as he thinks fit after consultation with those affected; 5
- (g) Make provision generally for the administration of this Act.

12. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 10

- (a) Establishing a system of licensing for all or any industries or activities which by their operation cause the environment to be polluted, such system of licensing to provide for the refusing of licences, or granting of licences, subject to conditions, having regard to the following grounds— 15
 - (i) The environmental impact of the proposed operation; and
 - (ii) Any adverse environmental effects which cannot be avoided should the proposed industry 20 or activity be implemented; and
 - (iii) Alternatives to the proposed operation; and
 - (iv) The relationship between local short-term benefits and the maintenance of the environment for long-term benefits; and 25
 - (v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed operation should it be implemented; and
 - (vi) Any other relevant consideration:
- (b) Ensuring the adequate conservation, protection, and safeguarding of the environment having regard to the social, economic, health, and other requirements of New Zealand: 30
- (c) Prescribing penalties not exceeding those which may be imposed under section 13 of this Act, for the breach of any regulations under this Act, or of the conditions of any licence under this Act. 35
- (d) Providing for such other matters as are contemplated by or necessary for giving full effects to the provisions of this Act and for the due administration thereof. 40

(2) All regulations made under this Act shall be laid before the House of Representatives within 28 days after the making thereof if Parliament is then in session and, if not, shall be laid before the House of Representatives within 5 28 days after the commencement of the next ensuing session.

(3) Regulations made under this Act may be so made as to apply generally throughout New Zealand or within any specified part or parts thereof, or within the whole of New Zealand except such part or parts as may be specified 10 in the regulations.

13. General penalty for offences—Every person who commits an offence against this Act “or any regulations made under this Act” for which no penalty is provided elsewhere than in this section shall be liable on summary conviction:

15 (a) In the case of an individual, to imprisonment for a term not exceeding 1 month, or to a fine not exceeding \$200, and if the offence is a continuing one, to a further fine not exceeding \$20 for every day during which the offence continues, or to both 20 such imprisonment and such fine:

(b) In the case of a body corporate, to a fine not exceeding \$1,000, and, if the offence is a continuing one, to a further fine not exceeding \$100 for every day during which the offence continues.

25 **14. Annual report**—The Guardian of the Environment shall in the month of April in each year, or as soon thereafter as practicable, cause to be prepared a report of all operations under this Act for the year ending on the preceding 31st day of March, and a copy thereof shall be laid 30 before the House of Representatives within 28 days after the receipt of the same by the Minister, if Parliament is then in session, and, if not, shall be laid before the House of Representatives within 28 days after the commencement of the next ensuing session.

35 **15. Saving of other Acts**—Every Act for the time being in force concerning the conservation, protection, and safeguarding of the environment shall be read subject to the provisions of this Act.