

NATIONAL DEVELOPMENT AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the National Development Act 1979.

Clause 1 relates to the Short Title.

Clause 2 amends section 4 (2) of the principal Act which empowers the Minister of National Development to delete any consent specified in an application under section 3 (2) (e) if he considers it should be applied for in the normal way, or add any consent not specified.

At present such action may only be taken before the application is referred to the Planning Tribunal.

The amendment provides that a consent may be deleted or added up to 3 weeks before the inquiry by the Planning Tribunal is to commence.

Clause 3 amends section 5 (3) of the principal Act.

At present, that subsection requires the Commissioner for the Environment to give his opinion on the environmental implications of a work in the form of an audit.

Under the amendment the Commissioner is required to audit the environmental impact report by examining and giving his opinion on the accuracy and adequacy of the report in so far as it relates to the proposed work.

Clause 4 amends section 7 of the principal Act, which relates to the inquiry by the Planning Tribunal. The amendment provides that the Tribunal may, after taking into account any development levy which may be payable by the applicant pursuant to Part XX of the Local Government Act 1974, order any party to pay to any other party such costs and expenses directly related to the consents sought (including survey, investigation, and research costs, and consultants' fees and legal fees) as it considers reasonable, and may apportion any such costs between the parties or any of them in such manner as it thinks fit.

Clause 5 repeals section 8 (3) of the principal Act, and substitutes 2 new subsections: (3) and (3A).

Under the present subsection (3), the Minister of Works and Development and the Commissioner for the Environment must be represented at the inquiry and be available for cross-examination. Under the new subsection (3) the Minister must be represented at the inquiry, and shall adduce such evidence as he or his representative considers will assist the Tribunal.

Under the new subsection (3A), the Commissioner for the Environment must be present or be represented at the inquiry, and the Commissioner or his representative is to be available for cross-examination.

Clause 6 amends section 9 of the principal Act, which relates to the matters to be taken into account by the Planning Tribunal.

The amendment makes it clear that the Tribunal is not to have regard to the criteria set out in section 3 (3) of the principal Act except to such extent as is necessary in order to comply with section 9 (1).

Clause 7, subclause (1) amends section 10 (1) of the principal Act to make it consistent with section 7 (1), by providing that the Tribunal is to prepare a report and recommendation on the matters relevant to the consents set out in the application, not a report and recommendation on the application.

Subclause (2) repeals section 10 (4) of the principal Act, which provided that the Tribunal's recommendation was to state whether the work should proceed as proposed, or proceed in a modified form, or not proceed at all.

Clause 8 adds a new subsection (2) to section 11 of the principal Act.

The new subsection provides that a copy of every plan referred to in any Order in Council made under subsection (1) is to be kept at such place or places as may be specified in the Order in Council, and shall be available for public inspection without fee during office hours at that place or those places.

Clause 9 amends section 17 of the principal Act which provides for certain proceedings to be brought in the Court of Appeal.

The amendments provide that if any person wishes to bring any proceedings in any Court, or make an application to any Court, which in any way touch or touches upon or relate or relates to—

- (a) Any application under section 3 (1) of the principal Act; or
- (b) The exercise or performance of any power, function, or duty under section 4 of the principal Act; or
- (c) Any environmental impact report forwarded to the Commissioner for the Environment under section 5 of the principal Act or the audit of it by that Commissioner under that section; or
- (d) Any investigation or recommendation made under section 6 of the principal Act; or
- (e) Any consent in respect of which the Tribunal is to conduct an inquiry under section 7 of the principal Act—

the proceedings are to be brought in, or the application is to be made to, the Court of Appeal.

Provision is made for proceedings brought in, and applications made to, the High Court or District Court before the commencement of the clause to be removed into the Court of Appeal and to be dealt with under section 17, if the amendments would have applied if they had been in force when the proceedings were brought or the application made.

Clause 10 inserts a new section 18A in the principal Act, which provides that where, by misadventure or accident, anything is at any time done after the time or is not done within the time required by the Act, or is otherwise irregularly done in matter of form, the Governor-General in Council may, from time to time, make provision for any such case, or may extend the time within which anything is required to be done, or may validate anything so done after the time required or so irregularly done in the matter of form, so that the true intent and purpose of the Act may have effect.

Hon. W. F. Birch

NATIONAL DEVELOPMENT AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the National Development Act 1979

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 National Development Amendment Act 1981, and shall be read together with and deemed part of the National Development Act 1979* (hereinafter referred to as the principal Act).
2. **Reference of application to Planning Tribunal**—Section 4 (2) of the principal Act is hereby amended by omitting the words “Before the application is so referred”, and substituting the words “At any time before the commencement of the period of 3 weeks before the date on which the inquiry under section 7 of this Act is to commence”.

*1979, No. 147

No. 75—1

3. Environmental impact report and audit—Section 5 (3) of the principal Act is hereby amended by omitting the words “give his opinion on the environmental implications of the work in the form of an audit”, and substituting the words “audit the environmental impact report by examining and giving his opinion on the accuracy and adequacy of the report in so far as it relates to the proposed work”.

4. Inquiry by Planning Tribunal—Section 7 of the principal Act is hereby amended by adding the following subsection:
“(13) The Tribunal may at any time before or after making its report and recommendation, after taking into account any development levy which may be payable by the applicant pursuant to Part XX of the Local Government Act 1974, order any party to the inquiry to pay to any other party such costs and expenses directly related to the consents sought (including survey, investigation, and research costs, and consultants’ fees and legal fees) as it considers reasonable, and may apportion any such costs between the parties or any of them in such manner as it thinks fit.”

5. Persons entitled to be heard—Section 8 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsections:

“(3) The Minister of Works and Development shall be represented at the inquiry, and shall adduce such evidence as he or his representative considers will assist the Tribunal.

“(3A) The Commissioner for the Environment shall be present or be represented at the inquiry and that Commissioner or his representative, as the case may be, shall be available for cross-examination.”

6. Matters to be taken into account—Section 9 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The Tribunal shall not have regard to the criteria set out in section 3 (3) of this Act except to such extent as is necessary in order to comply with subsection (1) of this section.”

7. **Tribunal to report to Minister, etc.**—(1) Section 10 (1) of the principal Act is hereby amended by inserting, after the words “report and recommendation on”, the words “the matters relevant to the consents set out in”.

5 (2) Section 10 (4) of the principal Act is hereby repealed.

8. **Work may be declared to be of national importance and consents granted**—Section 11 of the principal Act is hereby amended by adding the following subsection:

10 “(2) A copy of every plan referred to in any Order in Council made under subsection (1) of this section shall be kept at such place or places as may be specified in the Order in Council, and shall be available for public inspection without fee during office hours at that place or those places.”

9. **Review of proceedings before Tribunal, etc.**—(1) Section 17 of the principal Act is hereby amended by inserting, after subsection (4), the following subsection:

“**(4A)** If any person wishes to bring any proceedings in any Court, or makes an application to any Court, which in any way touch or touches upon or relate or relates to—

20 “(a) Any application made under section 3 (1) of this Act; or

“**(b)** The exercise or performance of any power, function, or duty under section 4 of this Act; or

25 “**(c)** Any environmental impact report forwarded to the Commissioner for the Environment under section 5 of this Act or the audit of it by that Commissioner under that section; or

“**(d)** Any investigation or recommendation made under section 6 of this Act; or

30 “**(e)** Any consent in respect of which the Tribunal is to conduct an inquiry under section 7 of this Act— and the provisions of subsection (2) or subsection (3) or subsection (4) of this section are not applicable to the proceedings or application, the provisions of subsections (5) to (9) of this section shall apply.”

(2) Section 17 (5) of the principal Act is hereby amended—

(a) By omitting the words “or subsection (4)”, and substituting the words “subsection (4), or subsection (4A)”;

40 (b) By omitting from paragraph (c) the word “importance—”, and substituting the words “importance; or”.

(3) The said section 17 (5) is hereby further amended by inserting, after paragraph (c), the following paragraph:

“(d) Not later than 7 days before the date on which the inquiry under section 7 of this Act is to commence, if subsection (4A) of this section is applicable—” 5

(4) The said section 17 (5) is hereby further amended by adding the words “or after that date, as the case may be”.

(5) Section 17 (6) of the principal Act is hereby amended by omitting the words “or subsection (4)”, and substituting the words “subsection (4), or subsection (4A)”. 10

(6) Section 17 (10) of the principal Act is hereby amended by inserting, after the words “subsection (4)”, the words “or subsection (4A)”.

(7) All proceedings which have been brought in the High Court or District Court, and every application which has been made to the High Court or District Court, before the commencement of this section, to which section 17 of the principal Act (as amended by this section) would have applied if this section had been in force before the proceedings were brought or the application made, are or is hereby removed into the Court of Appeal subject to such directions relating to the procedure for such removal as may be given by the Court of Appeal or a Judge thereof; and the proceedings or application shall thereafter be dealt with in accordance with the said section 17. 15
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10. Provision for minor irregularities, etc.—The principal Act is hereby further amended by inserting, after section 18, the following section:

“18A. Where, by misadventure or accident, anything is at any time done after the time or is not done within the time required by this Act, or is otherwise irregularly done in matter of form, the Governor-General in Council may, from time to time, make provision for any such case, or may extend the time within which anything is required to be done, or may validate anything so done after the time required or so irregularly done in the matter of form, so that the true intent and purpose of this Act may have effect.” 30
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