

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 28 August 1990

RESOURCE MANAGEMENT BILL

Proposed Amendments

Right Hon. GEOFFREY PALMER, in Committee, to move the following amendments:

Clause 2: To omit from line 10 on page 18 the word "but", and substitute the word "and".

To omit from line 34 on page 22 the word "permit", and substitute the word "activity".

To omit from line 1 on page 23 the word "permit", and substitute the word "activity".

Clause 15: To omit from lines 6 to 8 on page 46 the words "except in the case of Crown owned minerals in any land in the bed of a river or lake that is Crown land".

Clause 40A: To omit this clause from pages 76 and 77, and substitute the following clause:

40A. Protection of sensitive information—(1) A local authority may, on its own motion or on the application of any party to any proceedings or class of proceedings, make an order described in subsection (2) where it is satisfied that the order is necessary—

(a) To avoid serious offence to tikanga Maori or to avoid the disclosure of the location of waahi tapu; or

(b) To avoid the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information,—

and, in the circumstances of the particular case, the importance of avoiding such offence, disclosure, or prejudice outweighs the public interest in making that information available.

(2) A local authority may make an order for the purpose of subsection (1)—

(a) That the whole or part of any hearing or class of hearing at which the information is likely to be referred to, shall be held in private (which order shall, for the purposes of subsections (3) to (5) of section 48 of the Local Government Official Information and Meetings Act 1987, be deemed to be a resolution or motion passed or made under that section);

(b) Prohibiting or restricting the publication or communication of any information supplied to it, or obtained by it, in the course of any proceedings, whether or not the information may be material to any proposal, application, or requirement.

(3) An order made under subsection (2) (b) in relation to—

- (a) Any matter described in **subsection (1) (a)** may be expressed to have effect from the commencement of any proceedings to which it relates and for an indefinite period or until such date as the local authority considers appropriate in the circumstances:
- (b) Any matter described in **subsection (1) (b)** may be expressed to have effect from the commencement of any proceedings to which it relates but shall cease to have any effect at the conclusion of those proceedings,— and upon the date that such order ceases to have effect, the provisions of the Local Government Official Information and Meetings Act 1987 shall apply accordingly in respect of any information that was the subject of any such order.
- (4) In this section,—
- (a) “Information” includes any document or evidence:
- (b) “Local authority” includes any community board, board of inquiry, public body, special tribunal, or any person given authority to conduct hearings under **sections 32, 33, 98, 126, or 166.**

Clause 53: To omit from line 37 on page 85 the word “maintenance”, and substitute the word “preservation”.

Clause 66A: To omit from line 11 on page 97 the words “regional council”, and substitute the word “authority”.

Clause 120: To omit subclause (6) (lines 1 to 3 on page 147).

Clause 144: To omit from lines 17 to 19 on page 164 the words “undertake the project or work in accordance with sound business practice and will have”, and substitute the words “satisfactorily carry out all the responsibilities of a requiring authority under this Act and will give proper”.

Clause 173: To omit from lines 34 and 35 on page 189 the words “as soon as reasonably practicable after lodging the submission”, and substitute the words “within 5 working days of the submission being lodged”.

Clause 243: To omit from lines 31 and 32 on page 281 the words “Where an application is made for a permit and the applicant has a right to receive that permit under **section 232,**”, and substitute the words “Where the Minister’s approval of a work programme is required under this section before a permit can be granted,”.

Clause 252: To insert in line 20 on page 284, after the word “petroleum”, the word “mining”.

Clause 277: To omit from lines 27 and 28 on page 309 the words “form prescribed under the Land Transfer Act 1952”, and substitute the words “prescribed form”.

Clause 387D: To omit from line 7 on page 378 the words “give effect to”, and substitute the words “take into account”.

Clause 399: To insert in line 7 on page 393, after the word “revoked”, the words “by this Act”.

Clause 413: To insert, after line 12 on page 407, the following subclause:

- (1A) **Subsection (1)** also applies to any other form of lease, licence, or right of whatever nature to occupy land of the Crown or land vested in a regional council in a river or lake bed—

- (a) Which is granted under any other enactment, authority, or rule of law; and
- (b) Which is current immediately before the date of commencement of this Act.

Clause 414: To insert, after line 37 on page 407, the following subclause:

(1A) **Subsection (1)** also applies to any other form of lease, licence, or right of whatever nature to occupy the coastal marine area—

- (a) Which is granted under any other enactment, authority, or rule of law; and
- (b) Which is current immediately before the date of commencement of this Act.

To add to line 4 on page 408 the words “or in subsection (1A)”.

To insert in line 12 on page 408, after the words “subsection (1)”, the words “or in subsection (1A)”.

To insert in line 16 on page 408, after the words “subsection (1)”, the words “or subsection (1A)”.

To insert in line 23 on page 408, after the words “subsection (1) (b)”, the words “or subsection (1A)”.

Clause 427: To omit from lines 29 and 30 on page 432, and also from line 35 on that page, the words “(within the meaning of section 11)”.

Clause 439: To omit from line 24 on page 451, and also from line 30 on that page, the words “for the remainder of the term of his or her appointment”.

Clause 441A: To omit this clause from page 452, and substitute the following clause:

441A. Obligation to prepare draft New Zealand coastal policy statement within one year—(1) The Minister of Conservation shall, within one year after the date of commencement of this Act, in accordance with this Act publicly notify a proposed New Zealand coastal policy statement.

(2) Any steps taken by the Minister of Conservation before the date of commencement of this Act by way of notification of, and consultation in respect of, the draft New Zealand coastal policy statement notified by the Minister of Conservation in August 1990 shall be deemed to have been taken after the commencement of this Act in respect of a proposed New Zealand coastal policy statement.

(3) The Minister of Conservation shall not, if he or she complies with subsection (1) or (2), be in breach of section 47 during the period from the date of commencement of this Act until the New Zealand coastal policy statement is issued.

First Schedule: To omit from clause 28 (1) on page 484 the words “of a plan or change to a plan”, and substitute the words “or change”.

Second Schedule: To omit from clause 1 (g) on page 488 the word “adjacent”, and substitute the word “relevant”.

Sixth Schedule: To omit, from the item relating to the Maori Affairs Act 1953, section 432 (4) on page 534, and substitute the following subsection:

“(4) Notwithstanding subsection (2) of this section or anything to the contrary in the Resource Management Act 1990,—

- “(a) The territorial authority shall not require as a condition of a subdivision consent that a contribution in land (being a contribution for reserve purposes or land in lieu of reserves) be made in respect of any part of the land in respect of which the Court has certified to the territorial authority as being of special historical significance or spiritual or emotional association with the Maori people or any group or section of the Maori people; and
- “(b) No survey plan relating to the partition shall be required to be deposited by the District Land Registrar or Registrar of Deeds in accordance with Part VIII of the Resource Management Act 1990.”

To insert on page 544, in the fourth item relating to the Marine Farming Act 1971, after the words “as subsection (7)”, the words “of section 14E”.

To omit from page 545 the item relating to the Ministry of Transport Amendment Act 1972.

To omit from page 561, from the item relating to the Local Government Act 1974, the words “By repealing the Eleventh Schedule.”

To omit from page 578 the item relating to section 75 (4) of the Fisheries Act 1983.

To insert in the item relating to the Local Government Official Information and Meetings Act 1987 on page 586, in their appropriate order, the following items:

By inserting in section 7, after paragraph (b), the following paragraph:

“(bb) In the case only of an application for a resource consent, or water conservation order, or a requirement for a designation or heritage order, under the Resource Management Act 1990, to avoid serious offence to tikanga Maori, or to avoid the disclosure of the location of waahi tapu; or”.

By inserting in Part I of the First Schedule, after the item “City Councils”, the following item:

“Community boards, boards of inquiry, public bodies, special tribunals, or any person given authority to conduct hearings under sections 32, 33, 98, 126, or 166 of the Resource Management Act 1990”.

To insert, in the item relating to the Conservation Law Reform Act 1990 on page 592, in its appropriate order, the following item:

By omitting from section 22 (6) the words "water right granted or otherwise authorised pursuant to the Water and Soil Conservation Act 1967 or any other Act, and for this purpose it shall be a sufficient defence to produce a certificate to that effect from the Regional Water Board in the area of which the right was purported to be granted or otherwise authorised", and substituting the words "discharge permit granted under the Resource Management Act 1990 or was a permitted activity in the relevant regional plan under that Act, and for this purpose it shall be a sufficient defence to produce a certificate to that effect from the regional council in the area of which the permit was purported to be granted or activity otherwise permitted".

To add to Part I the following item:

1990, No. 105—The New Zealand Railways Corporation Restructuring Act 1990

By inserting, after section 12(2), the following subsection:

"(3) Section 9(1) of the Resource Management Act 1990 does not apply in respect of the granting of a lease to a railway operator under subsection (1) of this section unless the land in respect of which the lease is granted is used or is intended to be used solely or principally for car parking or for administration or residential purposes or for any purpose that is not connected with the operation of a railway."

EXPLANATORY NOTE

The majority of the amendments proposed are minor technical amendments, such as the correction of small drafting errors. The amendments of significance are as follows:

Clause 40A: It is proposed to replace the existing clause with, firstly, a new clause, and secondly, with specific amendments to the Local Government Official Information and Meetings Act 1987 (as proposed to be inserted in the *Sixth Schedule* to the Bill). The effect is to rationalise the material currently in the existing clause; to better clarify the relationship between the new clause and the provisions of the Local Government Official Information and Meetings Act 1987. The proposed changes are in line with suggestions made by the Office of the Ombudsman.

Clause 120: The proposed amendment deletes *subclause (6)* which is now unnecessary. The new *subclause (5)* covers the position with regard to the lapsing of a certificate of compliance, by applying the provisions of *clause 106*.

Clause 144: The purpose of the proposed amendment is to bring the clause (which relates to transfers of rights and responsibilities for designations) into line with *clause 132* (which relates to applications to become a requiring authority). This will ensure that the Minister considers the same criteria, regardless of whether the person becomes a requiring authority by virtue of a transfer or a new application.

Clause 173: The proposed amendment provides that copies of submissions to the Planning Tribunal have to be served on certain interested parties within 5 working days of lodgement with the Tribunal, rather than as soon as practicable.

Clause 387D: The proposed amendment imposes on the Hazards Control Commission the same duty with respect to the Treaty of Waitangi as is imposed on other decision makers under the Bill by *clause 6*.

Clauses 413 and 414: The proposed amendments deem certain existing rights to occupy land of the Crown or a regional council in river and lake beds, or land in the coastal marine area, to be resource consents.

Clause 439: The Bill currently provides that the Planning Judges who hold office at the commencement of the Act shall continue to hold office for the remainder of the term for which they were appointed. The proposed amendment provides for their continuation as Planning Judges for so long as they hold office as a District Court Judge. This extends the term of appointment of the existing Planning Judges in line with the position of new Planning Judges to be appointed after commencement of the Act.

Clause 441A: The clause currently requires the Minister of Conservation to publicly notify a draft New Zealand coastal policy statement within one year of the commencement of the Act. The proposed new clause recognises that that Minister notified a draft statement in August 1990, and provides that the notification of, and any consultation undertaken on, the statement shall be treated as having taken place after the date of commencement of the Act.

Sixth Schedule: The proposed amendment to section 432 of the Maori Affairs Act 1953 provides that the formal requirements of the Bill concerning survey plans need not be complied with in the case of partitions of land under the section.

The proposed amendment to the New Zealand Railways Corporation Restructuring Act 1990 carries over an existing exemption from Part XX of the Local Government Act 1974.