

House of Representatives

Supplementary Order Paper

Tuesday, 14 August 2012

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Bill

Proposed amendments

Hon Amy Adams, in Committee, to move the following amendments:

Clause 4

In *clause 4(1)*, before the definition of **activity** (before line 28 on page 12), insert:

abatement notice means a notice served under **section 122A**

In *clause 4(1)*, replace the definition of **adaptive management approach** (lines 29 to 37 on page 12) with:

adaptive management approach has the meaning given in **section 62A(2)**

In *clause 4(1)*, delete the definition of **Convention** (lines 9 and 10 on page 13).

In *clause 4(1)*, definition of **existing interest**, delete “territory” (line 1 on page 14).

In *clause 4(1)*, definition of **existing interest**, paragraph (b), after “consent” (line 8 on page 14), insert “granted under **section 61**”.

In *clause 4(1)*, definition of **existing interest**, paragraph (c), after “consent” (line 10 on page 14), insert “granted under the Resource Management Act 1991”.

In *clause 4(1)*, definition of **information principles**, replace “**section 13**” (line 24 on page 14) with “**sections 33A and 60A**”.

In *clause 4(1)*, delete the definition of **New Zealand territory** (lines 4 and 5 on page 15).

In *clause 4(1)*, replace the definition of **public notice** (lines 17 to 20 on page 15) with:

public notice means a notice—

- (a) published in a daily newspaper in—
 - (i) each of the cities of Auckland, Wellington, Christchurch, and Dunedin; and

(ii) the region adjacent to the area that is the subject of an application for a marine consent; and

(b) which must also be published on the EPA’s Internet site

In *clause 4(1)*, definition of **structure**, paragraph (b)(ii), after “with any” (line 6 on page 16), insert “offshore”.

In *clause 4(1)*, replace the definition of **threatened species** (lines 16 to 21 on page 16) with:

threatened species includes any species that—

(a) falls within the definition of threatened species in section 2(1) of the Biosecurity Act 1993; or

(b) is declared to be a threatened species or an at-risk species by the Minister of Conservation under **section 26A**

Clause 8

In *clause 8(8)*, replace “**(5)**” (line 9 on page 19) with “**(3)**”.

Clause 10

Replace *clause 10* (line 30 on page 19 to line 24 on page 20) with:

10 Purpose

- (1) The purpose of this Act is to promote the sustainable management of the natural resources of the exclusive economic zone and the continental shelf.
- (2) In this Act, **sustainable management** means managing the use, development, and protection of natural resources in a way, or at a rate, that enables people to provide for their economic well-being while—
 - (a) sustaining the potential of natural resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
 - (b) safeguarding the life-supporting capacity of the environment; and
 - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.
- (3) In order to achieve the purpose, decision-makers must—
 - (a) take into account decision-making criteria specified in relation to particular decisions; and
 - (b) apply the information principles to the development of regulations and the consideration of applications for marine consent.

Clause 11

Replace *clause 11* (lines 25 to 33 on page 20) with:

11 International obligations

This Act continues or enables the implementation of New Zealand's obligations under various international conventions relating to the marine environment, including—

- (a) the United Nations Convention on the Law of the Sea 1982;
- (b) the Convention on Biological Diversity 1992.

Clause 17

Replace *clause 17(3)* (lines 17 to 20 on page 31) with:

- (3) If the person undertaking the activity applies for a marine consent within the period described in **subsection (2)**, the activity may continue after the period has expired until the application—
 - (a) is decided under **section 61** and any appeals are determined; or
 - (b) is returned as incomplete under **section 42** and any objections and appeals are determined.
- (4) If the application for a marine consent described in **subsection (3)** was returned by the EPA under **section 42, subsection (3)** applies to any new application that replaces the returned application.

New clause 17A

After *clause 17* (after line 20 on page 31), insert:

17A Planned petroleum activities may commence and continue

- (1) This section applies to a planned petroleum activity if—
 - (a) the activity was classified as a permitted activity by regulations; and
 - (b) new regulations come into force that amend or replace the regulations described in **paragraph (a)** (the **new regulations**); and
 - (c) the activity requires a marine consent as a result of the amendment or replacement of the regulations described in **paragraph (a)**.
- (2) The activity may commence without a marine consent after the new regulations come into force.
- (3) However, before the activity may commence, the person intending to undertake the activity must—
 - (a) prepare an impact assessment for the activity; and
 - (b) provide the impact assessment to the EPA.
- (4) **Section 42** applies to the impact assessment as if it were an application for marine consent.

- (5) If the person undertaking the activity complies with **subsection (3)**, the activity may continue without a marine consent for a prescribed period or, if no period is prescribed for the activity, for 6 months from the date on which the new regulations come into force.
- (6) If the person undertaking the activity applies for a marine consent within the period described in **subsection (5)**, the activity may continue after the period has expired until the application—
 - (a) is decided under **section 61** and any appeals are determined; or
 - (b) is returned as incomplete by the EPA under **section 42** and any objections and appeals are determined.
- (7) If the application for a marine consent described in **subsection (6)** was returned by the EPA under **section 42, subsection (6)** applies to any new application that replaces the returned application.
- (8) In this section, **planned petroleum activity** means an activity involved with the exploration, prospecting, or mining for petroleum if, before the new regulations come into force,—
 - (a) the exploration, prospecting, or mining for petroleum with which the activity is involved is authorised by a permit that is granted under section 25 of the Crown Minerals Act 1991 or authorised by an existing privilege preserved under section 107 of that Act; and
 - (b) the activity has not commenced.

Clause 18A

Replace *clause 18A(2)(c)* (lines 13 to 15 on page 32) with:

- (c) comply with any instructions of the Environmental Protection Authority that relate to the stopping of the activity.

Clause 19

In *clause 19(3)*, replace “**section 113(1)(b)(ii)**” (line 2 on page 33) with “**section 113** or an abatement notice may be served under **section 122A**”.

Clause 38

In *clause 38(4)*, replace “**sections 16 and 18**” (line 33 on page 40) with “**section 18**”.

Clause 50

Replace *clause 50(2)* (lines 6 to 11 on page 46) with:

- (2) The person who conducts the meeting or mediation must report to the EPA and the persons who were at the meeting or mediation on the outcome of the meeting or mediation.

New clause 52A

After *clause 52* (after line 5 on page 47), insert:

52A Time limit for hearing

A hearing must be completed not later than 40 working days after the first day of the hearing.

Clause 59

Replace *clause 59(4)(b)* (lines 25 and 26 on page 51) with:

- (b) any advice, reports, or information it has sought and received in relation to the application; and
- (c) any advice received from the Māori Advisory Committee.

Clause 60A

In *clause 60A(1)(a)*, delete “the information and other resources available to it and of” (lines 27 and 28 on page 52).

Clause 61

In *clause 61(2)(a)*, after “application for” (line 18 on page 53), insert “a”.

Clause 65

Replace *clause 65(3)* (lines 18 to 20 on page 57) with:

- (3) The EPA must approve a person to be an observer in relation to a consent if—
 - (a) the person has the appropriate training, skill, and experience to perform the duties; and
 - (b) the EPA is satisfied that the person is able to perform the duties independently of the consent holder.

Clause 79

In *clause 79(8)*, replace “propose” (line 32 on page 64) with “impose”.

Clause 99

In *clause 99(3)(e)*, replace “**section 84.**” (line 23 on page 76) with “**section 84.**”.

Clause 107

In *clause 107(2)*, replace “(c)” (line 27 on page 79) with “(b)”.

Clause 115

Replace *clause 115(1)* (lines 6 to 8 on page 83) with:

- (1) The applicant for an enforcement order must serve notice of the application for the order—
 - (a) on every person directly affected by the application; and
 - (b) if the applicant is not the EPA or an enforcement officer, on the EPA.

Clause 121

In *clause 121(1)*, replace “The Environmental Protection Authority, an enforcement officer,” (lines 17 and 18 on page 85) with “The applicant for an enforcement order”.

Clause 122C

In *clause 122C(f)*, delete “; and” (line 24 on page 87).

Delete *clause 122C(g)* (lines 25 and 26 on page 87).

Clause 125

In *clause 125(1)(b)*, replace “\$600,000” (line 7 on page 90) with “\$10 million”.

Clause 132

In *clause 132(1)(a)*, delete “territory” (line 22 on page 94).

After *clause 132(1)* (after line 28 on page 94), insert:

- (1A) The inspection power authorises the person exercising it to—
- (a) inspect any item found in a place, vehicle, vessel, or structure entered in accordance with **subsection (1)**;
 - (b) take a sample of any substance;
 - (c) conduct examinations, tests, inquiries, and demonstrations;
 - (d) require the production of, and copy, any document or part of a document.

After *clause 132(4)* (after line 7 on page 95), insert:

- (4A) The provisions of Part 4 (except subparts 2 and 8, and sections 118 and 119) of the Search and Surveillance Act 2012 apply in respect of the powers conferred by this section.

Delete *clause 132(5)* (lines 8 and 9 on page 95).

In *clause 132(6)*, delete “and the **Schedule**” (line 10 on page 95).

Clause 134

After *clause 134(2)(b)* (after line 9 on page 96), insert:

- (ba) receiving impact assessments provided under **section 17A, 149A, or 151A**:

In *clause 134(2)(e)*, after “conditions” (line 19 on page 96), insert “or duration”.

Clause 149A

Replace *clause 149A* (lines 3 to 32 on page 108) with:

149A Existing petroleum activities that become discretionary

- (1) This section applies to an existing activity involved in prospecting, exploring, or mining for petroleum if—
- (a) the activity requires a marine consent as a result of this Act coming into force; and
 - (b) the prospecting, exploration, or mining for petroleum is authorised by a permit granted under section 25 of the Crown Minerals Act 1991 before this Act comes into

- force or authorised by an existing privilege preserved under section 107 of that Act; and
- (c) the activity was lawfully established before this Act comes into force.
- (2) However, this section does not apply to an existing activity to which **section 149B** applies.
- (3) The holder of the permit described in **subsection (1)(b)** must—
- (a) prepare an impact assessment for the activity; and
- (b) provide the impact assessment to the EPA no later than 2 months after this Act comes into force.
- (4) **Section 42** applies to the impact assessment as if it were an application for a marine consent.
- (5) If the holder of the permit described in **subsection (1)(b)** complies with **subsection (3)**, the activity may continue without a marine consent after the date on which this Act comes into force only—
- (a) until the close of the later of—
- (i) the date that is 6 months after that date; or
- (ii) 1 May 2013; but
- (b) if the person undertaking the activity applied for a marine consent within the period described in **paragraph (a)**, until the application—
- (i) is decided under **section 61** and any appeals are determined; or
- (ii) is returned as incomplete by the EPA under **section 42** and any objections or appeals are determined.
- (6) If the application for a marine consent described in **subsection (5)(b)** was returned by the EPA under **section 42**, **subsection (5)** applies to any new application that replaces the returned application.
- (7) **Subsection (5)** overrides **section 15**.

Clause 16

Replace *clause 16* (line 33 on page 108 to line 24 on page 109) with:

149B Existing petroleum mining activities involving structures or pipelines

- (1) This section applies to an existing activity that requires a marine consent as a result of this Act coming into force if the activity—
- (a) involves an existing structure or an existing submarine pipeline; and
- (b) is associated with mining for petroleum authorised by a petroleum mining permit granted under section 25 of

the Crown Minerals Act 1991 before the date on which this Act comes into force or authorised by an existing privilege preserved under section 107 of that Act.

- (2) However, despite **subsection (1)**, this section does not apply to any of the activities described in **subsection (3)** unless the Environmental Protection Authority provides a ruling to the effect that the adverse effects on the environment or existing interests of an activity are likely to be minor or less than minor.
- (3) The activities referred to in **subsection (2)** are—
 - (a) any activity that is part of an activity described in **subsection (1)**, such as placing a structure or drilling a well, that had not commenced before this Act comes into force; or
 - (b) any change in the character, intensity, or scale of the activity described in **subsection (1)** made on or after the date on which this Act comes into force; or
 - (c) the alteration, extension, removal, or demolition of an existing structure or existing submarine pipeline associated with the activity described in **subsection (1)**.
- (4) The activity to which this section applies may continue without a marine consent for the term of the permit or privilege as it was on the day before this Act comes into force.
- (5) **Subsection (4)** overrides **section 15**.

Clause 150

In *clause 150(1A)*, replace “**16**” (line 35 on page 109) with “**149B**”.

Replace *clause 150(2)(b)* (lines 6 to 10 on page 110) with:

- (b) if the person undertaking the activity applies for a marine consent within the period described in **paragraph (a)**, until the application—
 - (i) is decided under **section 61** and any appeals are determined; or
 - (ii) is returned as incomplete under **section 42** and any objections or appeals are determined.

After *clause 150(2)* (after line 10 on page 110), insert:

- (3) If the application for a marine consent described in **subsection (2)(b)** was returned by the EPA under **section 42**, **subsection (2)** applies to any new application that replaces the returned application.
- (4) **Subsection (2)** overrides **section 15**.

Clause 151

After *clause 151(2)* (after line 25 on page 110), insert:

- (3) **Subsection (2)** overrides **sections 15 and 38(3)**.

New cross-heading and new clause 151AA

After *clause 151* (after line 31 on page 110), insert:

*Mineral prospecting and exploration under Continental
Shelf Act 1964*

**151AA Mineral prospecting and exploration may commence
and continue**

- (1) This section applies to an activity that requires a marine consent as a result of this Act coming into force if the activity is associated with prospecting or exploration for minerals authorised by a licence granted under section 5 of the Continental Shelf Act 1964 before the date on which this Act comes into force.
- (2) If the activity has not commenced, the activity may commence and continue without a marine consent—
 - (a) in accordance with the licence; and
 - (b) for the term of the licence (including any extension of the term granted before this Act comes into force).
- (3) If the activity has commenced, the activity may continue without a marine consent—
 - (a) in accordance with the licence; and
 - (b) for the term of the licence (including any extension of the term granted before this Act comes into force).
- (4) This section overrides **section 15**.

Clause 151A

Replace *clause 151A(4) to (6)* (lines 7 to 26 on page 111) with:

- (4) **Section 42** applies to the impact assessment as if it were an application for a marine consent.
- (5) If the person intending to undertake the activity complies with **subsection (3)**, the activity may continue without a marine consent after the date on which this Act comes into force—
 - (a) until the close of the later of—
 - (i) the date that is 12 months after that date; or
 - (ii) 1 May 2014; but
 - (b) if the person undertaking the activity applies for a marine consent within the period described in **paragraph (a)**, until the application—
 - (i) is decided under **section 61** and any appeals are determined; or
 - (ii) is returned as incomplete by the EPA under **section 42** and any objections or appeals are determined.
- (6) If the application for a marine consent described in **subsection (5)(b)** was returned by the EPA under **section 42, sub-**

section (5) applies to any new application that replaces the returned application.

- (7) **Subsections (2) and (5)** override **section 15**.
- (8) In this section, **planned petroleum activity** means an activity involved with the exploration, prospecting, or mining for petroleum if,—
- (a) before the Act comes into force, the exploration, prospecting, or mining for petroleum with which the activity is involved is authorised by a permit that was granted under section 25 of the Crown Minerals Act 1991 or authorised by an existing privilege preserved under section 107 of that Act; and
 - (b) the activity had not commenced before the Act comes into force.

Clause 151B

Replace *clause 151B(1)* (lines 29 and 30 on page 111) with:

- (1) This section applies to an activity once the activity is no longer authorised by this subpart to continue, unless the activity is a permitted activity or authorised by a marine consent.

Replace *clause 151B(2)(b)* (lines 33 to 35 on page 111) with:

- (b) comply with any instructions of the Environmental Protection Authority that relate to the stopping of the activity.

New clauses 151C to 151E

In *Part 4*, after the *subpart 3* heading (after line 1 on page 112), insert:

Consequential amendments to Biosecurity Act 1993

151C Biosecurity Act 1993 amended

Sections 151D and 151E amend the Biosecurity Act 1993.

151D Relationship with other enactments

- (1) In section 7(2)(a), replace “(6) and section 7A” with “(6), and **sections 7A to 7D**”.
- (2) In section 7(2), replace “or the Resource Management Act 1991” with “the Resource Management Act 1991, or the **Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012**”.

151E Section 7A replaced (Relationship with Resource Management Act 1991)

Replace section 7A with:

“7A Relationship with Resource Management Act 1991

- “(1)** The responsible Minister may exempt an action from the provisions of Part 3 of the Resource Management Act 1991 if the

action is taken in accordance with Part 6 of this Act in an attempt to eradicate an organism and if—

“(a) the action would be in breach of Part 3 of the Resource Management Act 1991; and

“(b) the responsible Minister is satisfied that it is likely that—

“(i) the organism is not established in New Zealand, the organism is not known to be established in New Zealand, or the organism is established in New Zealand but is restricted to certain parts of New Zealand; and

“(ii) the organism has the potential to cause 1 or more of significant economic loss, significant adverse effects on human health, or significant environmental loss if it becomes established in New Zealand, or if it becomes established throughout New Zealand; and

“(iii) it is in the public interest that action be taken immediately in an attempt to eradicate the organism.

“(2) The exemption of an action under **subsection (1)** may last for up to 20 working days.

“(3) Before making a decision under **subsection (1)**, the responsible Minister—

“(a) must consult the relevant consent authority (to the extent that is possible in the circumstances); and

“(b) may consult such other persons as the responsible Minister considers are representative of the persons likely to be affected by the eradication attempt.

“(4) If an exemption is granted under **subsection (1)** or continued by regulations made under **section 7D**, Part 3 of the Resource Management Act 1991 does not apply to the action while the exemption continues.

“(5) After the exemption ends,—

“(a) the provisions of the Resource Management Act 1991 apply to the action and its adverse effects to the same extent as those provisions would have applied but for the exemption; and

“(b) the responsible Minister must remedy or mitigate the adverse effects to which the provisions of the Resource Management Act 1991 would have applied if not for the exemption.

“(6) For the purposes of this section, **consent authority** has the same meaning as in section 2(1) of the Resource Management Act 1991.

- “7B Relationship with Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012**
- “(1) The responsible Minister may exempt an action from the provisions of **Part 1A of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012** if the action is taken in an attempt to eradicate or manage an organism under this Act and if—
- “(a) the action would be in breach of **Part 1A of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012**; and
 - “(b) the responsible Minister is satisfied that it is likely that—
 - “(i) the organism is not established in the exclusive economic zone, the organism is not known to be established in the exclusive economic zone, or the organism is established in the exclusive economic zone but is restricted to certain parts of the exclusive economic zone; and
 - “(ii) the organism has the potential to cause 1 or more of significant economic loss, significant adverse effects on human health, or significant environmental loss if it becomes established in the exclusive economic zone, or if it becomes established throughout the exclusive economic zone, or if it spreads to New Zealand; and
 - “(iii) it is in the public interest that action be taken immediately in an attempt to eradicate or manage the organism.
- “(2) The exemption of an action under **subsection (1)** may last for up to 20 working days.
- “(3) Before making a decision under **subsection (1)**, the responsible Minister—
- “(a) must consult the Authority (to the extent that is possible in the circumstances); and
 - “(b) may consult such other persons as the responsible Minister considers are representative of the persons likely to be affected by the eradication or management attempt.
- “(4) If an exemption is granted under **subsection (1)** or continued by regulations made under **section 7D, Part 1A of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012** does not apply to the action while the exemption continues.
- “(5) After the exemption ends,—
- “(a) the provisions of the **Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012** apply to the action and its adverse effects to the

same extent as those provisions would have applied but for the exemption; and

- “(b) the responsible Minister must remedy or mitigate the adverse effects to which the provisions of the **Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012** would have applied if not for the exemption.

“7C **Public notice of decision to exempt action**

- “(1) After making a decision under **section 7A or 7B**, the responsible Minister must give public notice of the Minister’s decision in such a manner as the Minister thinks fit.
- “(2) The public notice must specify—
- “(a) the organism to be eradicated or managed; and
- “(b) the principal actions that may be taken in the attempt to eradicate or manage the organism; and
- “(c) the areas affected by the action.
- “(3) A failure to comply with the provisions of this section or **section 7A(3) or 7B(3)** does not affect the validity of any exemption given under **section 7A or 7B**.

“7D **Regulations may continue exemption**

- “(1) The Governor-General may, by Order in Council made on the recommendation of the responsible Minister, make regulations—
- “(a) continuing the exemption under **section 7A** of an action from Part 3 of the Resource Management Act 1991:
- “(b) continuing the exemption under **section 7B** of an action from **Part 1A of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012**.
- “(2) The responsible Minister must not make a recommendation for the purposes of **subsection (1)** unless he or she considers that it is necessary to continue the action to attempt to eradicate or manage the organism beyond the duration of the exemption.
- “(3) Regulations made under this section come into force on the date of notification in the *Gazette*, or at the time specified in the regulations, whichever is the later.
- “(4) The regulations expire on the day that is 2 years after the date on which the regulations come into force unless they are revoked earlier.”

New clause 158

After *clause 157* (after line 27 on page 113), insert:

Amendment to Search and Surveillance Act 2012

158 Amendment to Search and Surveillance Act 2012

- (1) This section amends the Search and Surveillance Act 2012.
- (2) In the Schedule, after the item relating to the Electricity Industry Act 2010, insert:

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012	132(1) and (1A)	Enforcement officer may enter and inspect a place, vehicle, vessel, or structure to determine whether Act, regulations, marine consent, abatement notice, or enforcement order are being complied with	All (except sub-parts 2 and 8 and sections 118 and 119)
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Schedule

Delete the *Schedule* (line 1 on page 114 to line 10 on page 116).

Explanatory note

This Supplementary Order Paper amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Bill. The most significant amendments are outlined in this note.

In *clause 4*, a number of definitions are deleted, amended, or replaced. The most significant changes are the new definitions of **public notice** and **threatened species**. The definition of **public notice** now includes a notice in a daily newspaper published in the region adjacent to the area that is the subject of an application for a marine consent. The definition of **threatened species** reflects a new power in *clause 26A* for the Minister of Conservation to declare a species to be threatened or at-risk.

Clause 10, which states the purpose of the Act, is replaced. The old purpose was to seek a balance between the protection of the environment and economic development. The new purpose is to promote sustainable management of the natural resources of the exclusive economic zone and continental shelf.

Clause 11, which provides for the Act to be interpreted under various international conventions, is replaced. *New clause 11* records that the Act continues or enables the implementation of New Zealand's international obligations so that a decision-maker under the Act does not need to look beyond the Act to be sure that he or she is complying with those obligations.

New clause 17A is inserted. It provides for certain petroleum activities that were planned before the regulations that apply to them were amended. If an activity was permitted before the regulations were changed but requires a marine consent

after the change, the activity may commence without a marine consent, but an impact assessment must be provided. The activity may continue for 6 months or a prescribed period. If during that time the person undertaking the activity applies for a marine consent, the activity may continue until the application is decided and any appeals determined.

Clause 50 provides for mediation and meetings to resolve disputes relating to applications for marine consents. *Subclause (2)* is replaced to remove the requirement that the report of the meeting or mediation must be provided to the Environmental Protection Authority (EPA) by a certain stage in the process.

New clause 52A is inserted. The new clause requires a hearing to be completed not later than 40 working days after the first day of the hearing.

Clause 59 specifies the matters that the EPA must take into account or have regard to when it is considering an application for a marine consent. *Subclause (4)* is amended to clarify that the advice, reports, or information that the EPA must have regard to is advice, reports, or information sought and received by the EPA under the Act and advice received from the Māori Advisory Committee.

Clause 60A specifies information principles that the EPA must apply when considering an application for a marine consent. *Subclause (1)(a)* is amended so that the EPA must make full use of its powers to request information from the applicant, to obtain advice, and commission a review or a report but need not make full use of the information and other resources available to it.

Clause 65 relates to a condition on a marine consent that requires a consent holder to appoint an observer. Only a person approved by the EPA may be appointed. *New subclause (3)* adds as a criterion for appointment that the EPA is satisfied that the person approved is able to act independently of the consent holder.

Clauses 115 and 121 are amended to reflect that the Bill, as amended by the select committee, allows any person to apply for an enforcement order.

Clause 132 empowers enforcement officers to enter and inspect a place, vehicle, vessel, or structure in specified circumstances. General provisions related to the inspection power are set out in the *Schedule*. *Section 132* is amended to take in some aspects of the *Schedule* and to refer to and apply the provisions of Part 4 of the Search and Surveillance Act 2012. The *Schedule* is deleted as a consequence.

Clause 134 sets out the principles upon which decisions relating to cost recovery must be based and specifies particular functions and services the costs of which may be recovered. *Clause 134(2)* is amended to allow the EPA to recover the costs of receiving impact assessments from persons intending to undertake planned petroleum activities under *section 17A or 151A*, or existing petroleum activities under *clause 149A* for a transitional period.

Clause 16 provides for existing mining activities that become discretionary as a result of the Bill being enacted. *Clause 16* is replaced with *new clause 149B* so that it provides only for existing petroleum mining activities involving structures or pipelines and no longer covers mineral mining activities licensed under the Continental Shelf Act 1964. The latter are now provided for by *new clause 151AA*. Existing petroleum mining activities do not include activities that may

be authorised as part of, or as a change to, the existing activity, but that have more than minor effects on the environment or existing interests. The EPA is the arbiter of whether the effects are more than minor.

New clause 151AA provides for the mineral prospecting and exploration that was provided for in *clause 16*. The new clause allows certain mineral prospecting and exploration licensed under the Continental Shelf Act 1964 to commence (if it has not already commenced) and continue for the term of the licence.

New clauses 151C, 151D, and 151E insert amendments to the Biosecurity Act 1993. Section 7A of that Act, which provides for the relationship between the Biosecurity Act and the Resource Management Act 1991, is replaced by *new sections 7A to 7D*. Essentially, existing section 7A is split into 3 provisions (*new sections 7A, 7C, and 7D*) and *new section 7B* makes provision for the relationship between the Biosecurity Act 1993 and the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. The effect of *new section 7B* is to allow the responsible Minister under the Biosecurity Act 1993 to exempt actions taken to eradicate or manage an unwanted organism in the exclusive economic zone from the new Act for up to 20 working days or a longer period if provided for in regulations.

New clause 158 amends the Search and Surveillance Act 2012 by inserting in the Schedule a reference to the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, a description of the entry and search power under clause 132, and a summary of the provisions of the Search and Surveillance Act 2012 that apply to the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.
