

House of Representatives
Supplementary Order Paper

Tuesday, 14 August 2012

Exclusive Economic Zone and Continental Shelf
(Environmental Effects) Bill

Proposed amendments

Gareth Hughes, in committee, to move the following amendments:

Clause 15

In *clause 15*, after *subclause (4)* (after line 22 on page 30), insert:

- (4A) No person may undertake oil or gas exploration or production in depths of more than 200 metres in the exclusive economic zone, its waters, or the continental shelf.

Clause 28

In *clause 28(1)*, after *paragraph (c)* (line 24 on page 34), insert:

- (ca) extend a marine reserve made under the Marine Reserves Act 1971; or

After *clause 28(2)* (after line 32 on page 34), insert:

- (3) An area identified by regulations authorised by **subsection (1)(ca)** is a marine reserve for the purposes of the Marine Reserves Act 1971 and is closed to all activities described in **section 15**.

Clause 59(3)

In *clause 59(3)*, after *paragraph (l)* (after line 19 on page 51), insert:

- (la) the effects relating to climate change; and

Clause 59

In *clause 59(6)*, delete *paragraph (b)* (lines 1 and 2 on page 52).

Clause 125

In *clause 125*, replace *subclauses (1) and (2)* (lines 2 to 11 on page 90) with:

- (1) A person who commits an offence against **section 124(1)** is liable on conviction,—
 - (a) in the case of a natural person, to a fine not exceeding \$600,000;
 - (b) in the case of a person other than a natural person, to a fine not exceeding \$12,000,000.
- (2) Every person who commits an offence against **section 124(1)** is also liable on conviction, if the offence is a continuing one, to a fine not exceeding \$50,000 for every day or part of a day during which the offence continues.

Explanatory note

This Supplementary Order Paper amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Bill.

Clause 15—This clause is amended to prohibit deep-sea drilling in the exclusive economic zone. The potential environmental risks associated with deep-sea drilling are too great to allow consents for this type of activity to be given without greater legislative and institutional restrictions and guidelines in place. Costs associated with the clean-up of the Gulf of Mexico (US \$15 billion) oil spill reflect the environmental and economic risks associated with deep-sea drilling. In New Zealand, the response to the 2011 Rena oil spill demonstrated how under-prepared the Government was for an oil-related disaster of any scale, let alone one as catastrophic as the Gulf of Mexico spill. This amendment acts to protect New Zealand from a recurrence, at least until there are much more extensive safeguards in place.

Clause 28—This clause is amended to provide for the extension of marine reserves into the exclusive economic zone and for their protection from the adverse effects of marine activities. It is essential that marine reserves such as the area surrounding the Kermadec Islands, which is New Zealand's largest marine reserve and is also significant by world standards, are permanently closed to all activities listed in *clause 15* of the Bill, if they are extended into the exclusive economic zone. This amendment ensures further, and explicit, legislative protection for marine reserves in the exclusive economic zone.

Clause 59—This clause is amended to include climate change in the list of considerations that the Environmental Protection Authority (EPA) must take into account when considering an application for marine consent and submissions on the application, which is currently barred from consideration as the Bill stands. Climate change is the most serious environmental issue and is impacting on the oceans, yet the Bill specifically prevents the EPA from considering the effects of discharging greenhouse gases. *Clause 59(6)(b)* is very similar in nature to section 70A of the Resource Management Act 1991, which was amended by

section 6 of the Resource Management (Energy and Climate Change) Amendment Act 2004 to prohibit regional councils from considering the effects on climate change when making rules to control the discharge of greenhouse gases. This consideration was specifically precluded from the Resource Management Act 1991 in order to implement the Government's climate change policy at a national level, and avoid duplication of policy at council and national level. The provision in that Act specifically relates to the role of the regional council in considering the effect on climate change, rather than the overarching environmental issue of climate change. The EPA is a government agency responsible for environmental management at a national level; therefore the purpose behind section 70A of the Resource Management Act is irrelevant for the purposes of this Bill. This amendment rectifies this situation and includes the important environmental issue of climate change in the list of considerations the EPA must take into account.

Clause 125—This clause is amended to significantly increase the maximum penalties for offences against the Bill. The penalties listed in *clause 125* as it stands are taken directly from section 339 of the Resource Management Act 1991. Penalties that mirror penalties under the Resource Management Act are inadequate given the scale of some potential activities in the marine environment. The penalties under the Bill need to be sufficiently high so as to act as a deterrent to individuals or companies considering commencing activity in the exclusive economic zone without having undergone the consent process, where potential risks of negative environmental effects or mismanagement are considered. Penalties must not be so low that companies engaging in marine activity without consent may consider these fines simply a necessary cost of doing business. Costs associated with the clean-up of recent large-scale oil spills such as the Gulf of Mexico (US \$15 billion) and Rena (up to NZ \$130 million) reflect the huge economic risks associated with activities in the marine environment. This amendment increases the penalties associated with offences under the Bill in order to give real effect to the regulatory purpose the Bill aims to achieve.
