

House of Representatives
Supplementary Order Paper

Thursday, 16 August 2012

**Exclusive Economic Zone and Continental Shelf
(Environmental Effects) Bill**

Proposed amendments

Moana Mackey, in Committee, to move the following amendments:

Clause 27:

In *clause 27(1)*, after *paragraph (c)* (after line 30 on page 33), insert:

- (d) the decision-making methodology by the EPA.

Clause 32:

In *clause 32(2)(a)(i)*, replace “subject matter” (line 4 on page 37), with “full text”.

In *clause 32(3)*, after “or makes minor technical changes” (line 18 on page 37), insert “that have no potential to increase an adverse effect on the environment or an adverse effect on persons with an existing interest”.

Clause 33A:

In *clause 33A(2)*, replace “caution” (line 11 on page 39), with “a precautionary approach”.

In *clause 33A(3)*, replace “caution” (line 12 on page 39), with “a precautionary approach”.

Clause 47:

In *clause 47*, delete *subclause (3)* (lines 23 to 25 on page 45).

Clause 49:

In *clause 49*, after “a list” (line 32 on page 45), insert “and copies”.

Clause 60A:

In *clause 60A(2)*, replace “caution” (line 36 on page 52), with “a precautionary approach”.

In *clause 60A(3)*, replace “caution” (line 1 on page 53), with “a precautionary approach”.

Clause 62A:

In *clause 62A*, replace *subclause (2)* (lines 10 to 17 on page 55) with:

- (2) An **adaptive management approach**—
- (a) includes allowing an activity to commence on a small scale or for a short period so that its effects on the environment and existing interests can be monitored:
 - (b) includes allowing an activity to be undertaken on the basis that consent can be revoked if the effects are more than minor:
 - (c) does not include allowing an activity to commence if its effects are likely to be serious or irreversible.

Clause 125:

In *clause 125(1)(a)*, replace “\$300,000” (line 5 on page 90), with “\$3,000,000”.

In *clause 125(2)*, replace “\$10,000” (line 10 on page 90), with “\$100,000”.

In *clause 125(3)*, replace “\$10,000, and, if the offence is a continuing one, to a further fine not exceeding \$1,000” (lines 13 to 15 on page 90), with “\$100,000, and, if the offence is a continuing one, to a further fine not exceeding \$10,000”.

In *clause 125(4)*, replace “\$1,500” (line 18 on page 90), with “\$15,000”.

Explanatory note

This Supplementary Order Paper amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Bill, which fails to protect the environment adequately.

Clause 27 is amended to allow the Minister to subsequently develop regulations relating to the decision-making methodology. As currently drafted the Bill provides very little guidance on how applications are to be decided. It merely requires the Environmental Protection Authority (EPA) to “take into account” and “have regard to”, but does not set down how the various factors should be weighted. The absence of a decision-making methodology adds to the uncertainty around the Bill. This amendment would allow the Minister to clarify this point.

Clause 32 is amended to ensure greater transparency in developing and amending regulations.

Clause 33(A) is amended to remove the new term “favour caution” and replace it with the more widely understood term “precautionary approach”. While it has been stated that the Bill is consistent with the precautionary approach without explicit reference, to avoid doubt and unnecessary confusion, the term should be adopted.

Clause 47 is amended to ensure the process for submitters is easier. It removes the obligation to provide a copy of the submission as soon as is reasonably practicable after serving it on the EPA. The obligation to provide the applicant with copies of the submissions is placed in the EPA.

Clause 49 is amended to ensure the EPA is responsible for providing a copy of all submissions to the applicant.

Clause 60(A) is amended to ensure that it is consistent with *clause 33(A)*.

Clause 62A is amended to provide greater safeguards against the commencement of activities that may produce harmful effects.

Clause 125 is amended to significantly increase the penalties. As currently drafted the penalties do not provide a sufficient disincentive. Significantly increasing the penalties ensures the deterrent is commensurate with the high-risk and high-value nature of the activities.
