



ANALYSIS

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1981, No. 130

An Act to amend the National Development Act 1979

[23 October 1981]

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. 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”.

3. 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—

“(a) Order the applicant to pay to any statutory authority which would normally grant the consents inquired into by the Tribunal such costs and expenses directly related to the consents sought (including survey, investigation, and research costs, consultants’ fees, legal fees, and expenses of witnesses) as it considers reasonable:

“(b) Order any party to the inquiry to pay to any other party such costs and expenses (including expenses of witnesses) as it considers reasonable, and may apportion any such costs between the parties or any of them in such manner as it thinks fit.”

4. Requirements may be waived, etc.—The principal Act is hereby further amended by inserting, after section 7, the following section:

“7A. In conducting any inquiry under this Act, the Tribunal, on application to it in that behalf, may, if there is any omission from or delay or inaccuracy in any information, report, or recommendation required to be supplied, or in any step required to be taken, in respect of the inquiry,—

“(a) Waive compliance with the requirement in respect of any such omission or delay or inaccuracy; or

“(b) Direct that any such omission or delay or inaccuracy be rectified upon such terms as to adjournment, service of documents, costs, or other thing as shall in its opinion be appropriate to the circumstances—
if it is satisfied that no party to the inquiry will be prejudiced by the waiver or direction.”

5. Persons entitled to be heard—(1) Section 8 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) Every statutory authority which would normally grant the consents set out in the application referred to the Tribunal shall be represented at the inquiry, and may call evidence based on but not restricted to the recommendation given to the Tribunal under section 6 of this Act.

“(3) The Minister of Works and Development and the Commissioner for the Environment shall be represented at the inquiry, and shall adduce such evidence and make available for cross-examination such witnesses as he or his representative considers will assist the Tribunal.”

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”.

(2) The said section 10 is hereby further amended by inserting, after subsection (2), the following subsection:

“(2A) Every such report shall recommend whether each consent set out in the application referred to the Tribunal should be granted, granted in a modified form, or not granted.”

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

8. Work may be declared to be of national importance and consents granted—(1) Section 11 of the principal Act is hereby amended by omitting the words “application referred to”, and substituting the words “report of”.

(2) The said section 11 is hereby further amended by adding the following subsection:

“(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 make an application to any Court, which in any way touch or touches upon or relate or relates to—

“(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

“(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

“(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)”:

(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—”.

(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)”.

(6) 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.

10. Savings and transitional provisions—(1) Every inquiry which has been commenced under the principal Act before this Act came into force and which has been wholly or partly heard by the Tribunal, shall be continued and completed as if this Act (other than section 9) had not been enacted.

(2) Subject to subsection (1) of this section, the provisions of the principal Act shall apply in respect of any application made under section 3 of the principal Act, before the commencement of this Act, as if this Act (other than section 2) had been in force when the application was made.

11. Amending Local Government Act 1974—Section 294A of the Local Government Act 1974 (as inserted by section 12 of the Local Government Amendment Act 1981) is hereby amended by adding the following subsections:

“(10) Subject to subsection (11) of this section, the united council or regional council, in determining the amount of any development levy payable under this section, shall deduct from the levy that would otherwise be payable the amount of any costs and expenses ordered to be paid by the owner under section 7 (13) (a) of the National Development Act 1979.

“(11) The united council or regional council shall not deduct from the development levy calculated under this section an amount that would reduce the development levy payable in respect of the development to an amount that is less than the development levy that would otherwise be payable on the first \$50 million of the assessed value or actual capital value of the development.”

This Act is administered in the Ministry of Works and Development.
