

Resource Management (Aquaculture Moratorium Extension) Amendment Bill

Government Bill

Explanatory note

General policy statement

The Bill makes amendments to:

- extend the current moratorium on coastal permit applications for aquaculture activities (marine farming, spat catching, or both):
- deem certain existing coastal permits for aquaculture activities to have been “given effect to” for the purpose of section 125 of the Resource Management Act 1991, by the holders of those consents applying for a permit for marine farming or spat catching under the Fisheries Act 1983:
- revive certain coastal permits for aquaculture activities that have lapsed because they were unable to be “given effect to” until Fisheries Act 1983 marine farming or spat catching permits had also been granted for the sites. The act of applying for a Fisheries Act 1983 marine farming or spat catching permit would then be deemed to be “giving effect” to the resource consent for the purpose of section 125 of the Resource Management Act 1991:
- remove the time limit that is currently provided for the Minister of Conservation to recommend an Order in Council for the early expiry of the moratorium over specified areas.

A moratorium on new applications has been in place since 28 November 2001 and will expire on 25 March 2004. The purpose of the moratorium was to give time for the aquaculture reforms to be enacted and for councils to begin planning without changes being

pre-empted by large numbers of applications for new marine farms and spat catching sites. The moratorium prevented new applications from being lodged and placed those applications that had not been notified on hold. All applications notified before the moratorium are being processed under existing law and rules.

Legislation to bring in the aquaculture reforms has not been able to be progressed within the original timeframe due to the complexity of the transitional elements of the aquaculture reform process and the issue of Maori interests in marine farming. Extending the moratorium is necessary to ensure that the benefits of the aquaculture reforms are not undermined by applications made before the enactment of the reforms.

The Bill will also resolve difficulties that have arisen with a number of resource consents for aquaculture activities that have lapsed or are likely to lapse before the associated applications for marine farming or spat catching permits under the Fisheries Act 1983 have been determined. The Bill revives these lapsed consents and provides that the making of an application for a marine farming permit or spat catching permit under the Fisheries Act 1983 will be deemed to be giving effect to the resource consent. This will apply only to resource consents for aquaculture activities granted between 1 June 1995 and 1 August 2003. The problem affects only some of the resource consents that were granted under the dual regime in the Fisheries Act 1983 and the Resource Management Act 1991.

The current time limit of 20 working days for the Minister of Conservation to recommend the early expiry of the moratorium over specified areas is too short to complete the process of considering and preparing the necessary Order in Council. While it is intended that any requests for early expiry will be processed promptly, the time limit is unworkable so it will be removed.

Clause by clause analysis

Clause 1 is the Title clause.

Part 1

Preliminary provisions

Clause 2 is the commencement clause. The Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 states the purpose of the Bill.

Part 2

Amendments to principal Act

Clause 4 amends section 125 of the principal Act which provides when resource consents lapse. The amendment makes that section subject to *new section 150G* as inserted by *clause 7*.

Clause 5 amends the definition of **moratorium** in section 150A of the principal Act. The effect of the amendment is to extend the moratorium to 31 December 2004.

Clause 6 makes a consequential amendment to section 150C(1) of the principal Act. This clause also repeals section 150C(3) and (4). The effect of this is to remove the time limit within which the Minister of Conservation must make a recommendation about early expiry of the moratorium for a specified area as requested by a regional council.

Clause 7 inserts a *new section 150G* in the principal Act. The new section applies to coastal permits issued in the period from 1 June 1995 to 1 August 2003 for the occupation of areas in the coastal marine area for aquaculture activities. The new section revives permits that have lapsed during the period and provides that the permits (whether current or revived) are given effect to by applying under section 67J or 67Q of the Fisheries Act 1983 to the chief executive of the Ministry of Fisheries for a marine farming or spat catching permit over the same area.

Hon Marian Hobbs

Resource Management (Aquaculture Moratorium Extension) Amendment Bill

Government Bill

Contents

1	Title	6	Earlier expiry of moratorium in relation to specified areas
	Part 1		
	Preliminary provisions	7	New heading and section 150G inserted
2	Commencement		<i>Certain coastal permits continued</i>
3	Purpose		150G Certain coastal permits issued in period from 1 June 1995 to 1 August 2003 continued
	Part 2		
	Amendments to principal Act		
4	Lapsing of consent		
5	Interpretation		

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Resource Management (Aquaculture Moratorium Extension) Amendment Act **2003**.
- (2) In this Act, the Resource Management Act 1991¹ is called “the principal Act”.

¹ 1991 No 69

Part 1 **Preliminary provisions**

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 10

3 Purpose

The purpose of this Act is—

- (a) to extend to 31 December 2004 the moratorium on the granting of coastal permits for aquaculture activities; and 15

- (b) to repeal the time limit within which the Minister of Conservation must make a recommendation for the earlier expiry of the moratorium in relation to specified areas as requested by regional councils; and
- (c) in relation to coastal permits granted during the period from 1 June 1995 to 1 August 2003, to—
 - (i) provide that they are given effect to when a marine farming permit or spat catching permit is applied for under the Fisheries Act 1983; and
 - (ii) continue in force those that have lapsed.

Part 2 Amendments to principal Act

- 4 Lapsing of consent**
Section 125 of the principal Act is amended by adding the following subsection:
“(3) This section is subject to **section 150G.**”
15
- 5 Interpretation**
Section 150A of the principal Act is amended by repealing paragraph (b)(i) of the definition of **moratorium**, and substituting the following subparagraph:
“(i) 31 December 2004; or”.
20
- 6 Earlier expiry of moratorium in relation to specified areas**
 - (1) Section 150C(1) of the principal Act is amended by omitting the words “the date that is 2 years after the commencement of the Resource Management (Aquaculture Moratorium) Amendment Act 2002”, and substituting the expression “31 December 2004”.
25
 - (2) Section 150C(3) and (4) is repealed.
- 7 New heading and section 150G inserted**
The principal Act is amended by inserting, after section 150F, the following heading and section:
30

“Certain coastal permits continued

**“150G Certain coastal permits issued in period from 1 June
1995 to 1 August 2003 continued**

- “(1) This section applies to coastal permits issued—
- “(a) in the period beginning on 1 June 1995 and ending with the close of 1 August 2003; and 5
 - “(b) for the occupation of an area in the coastal marine area for the purpose of aquaculture activities.
- “(2) A coastal permit is given effect to when the holder of the permit applies under section 67J or section 67Q of the Fisheries Act 1983 to the chief executive of the Ministry of Fisheries for a marine farming permit or a spat catching permit over the same area. 10
- “(3) A coastal permit that has lapsed under section 125 before 1 August 2003 is deemed not to have lapsed if, before the coastal permit lapsed under section 125, the holder of the coastal permit had applied under section 67J or section 67Q of the Fisheries Act 1983 to the chief executive of the Ministry of Fisheries for a marine farming permit or a spat catching permit over the same area.” 15 20