

## **New offshore mining laws**

A new regime for managing the environmental impact of offshore activities has been established in the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. The new laws will regulate activities within New Zealand's exclusive economic zone and extended continental shelf – the area beyond 12 nautical miles from the coastline.

The Act was passed on September 3 and will come into force when regulations are finalised, probably next year.

At present there is no comprehensive regime for managing the environmental effects of offshore activities. A number of different Acts govern activities in the exclusive economic zone and extended continental shelf in a piecemeal way. The new Act is intended to fill the gaps.

Under the new Act a marine consent will be required to carry out certain offshore activities. The Environmental Protection Authority will consider applications for marine consents.

The new Act establishes a framework for regulating offshore activities. Operational and technical details will be set out in regulations that are yet to be finalised. Meanwhile, the Government has set up voluntary measures to manage risks.

The new Act is part of the Petroleum Action Plan launched by the Government in November 2009. The plan aims to maximise gains from the responsible development of New Zealand's oil and gas resources.

Offshore mining already makes a significant contribution to the New Zealand economy. Despite current oil and gas production being confined to Taranaki, crude oil is New Zealand's fourth largest export commodity by value, responsible for thousands of jobs and producing hundreds of millions of dollars of tax and royalty revenue for the Government. New oil and gas developments represent a significant opportunity for New Zealand and could also result in substantial benefits to regional economies.

The Ministry of Business, Innovation and Employment recently estimated a South Island oil and gas field development could increase regional GDP by between \$557 million and \$3.2 billion. As well as the potential for local businesses to participate directly in oil and gas activities, there would be trickle down effects through job creation, higher wages, higher demand for local goods and services and new investment in the region.

Other regulatory initiatives are underway in the petroleum and minerals sectors.

A review of how permits are allocated to prospect, explore for and mine oil, gas and minerals has begun. Government will also consider the royalty rate that mining companies pay in relation to Crown-owned minerals over and above company tax. A Crown Minerals Amendment Bill is expected to be introduced into Parliament later this year.

Improvements to health and safety in the petroleum production and mining industries were inherent in the establishment last year of a High Hazards Unit within the Ministry of Business, Innovation and Employment (formerly Department of Labour). The Health and Safety in Employment (Petroleum Exploration and Extraction) Regulations 1999 are under review and rules are being considered to provide a high level health, safety and environmental capability assessment when minerals permits are applied for.

Insurance and liability requirements for the offshore petroleum industry are also being looked at.

The various reform proposals unavoidably create a climate of some uncertainty for investment in the petroleum and minerals sectors which the Government is keen to resolve as quickly as it can.

Some areas of New Zealand's exclusive economic zone and extended continental shelf appear to have exciting potential. But the extent to which that potential will be explored and potentially developed such that New Zealand realises the economic and social benefits associated with this type of activity will depend on the international attractiveness of the consenting, royalty, and taxation regimes the Government adopts.

Investment in petroleum and minerals is highly mobile, so if New Zealand is to benefit from a new wave of exploration and development, it will need to be on the back of responsible law and policy-making. The regulatory environment must appropriately address the real environmental risks, their likelihood of occurrence and their significance. It must also take into account the methods that can be used to mitigate or avoid those risks.

New rules will also need to be supported by a fiscal regime which achieves a fair return to the Crown from the development of its minerals. This has to be balanced by not imposing on the industry costs which undermine the attractiveness of New Zealand as a place to do business.

Achieving the right balance is not straight-forward. Finding the equilibrium is made more difficult considering this is an industry where for some people outright opposition to development is an attractive substitute for informed risk assessment and management.

Understanding and addressing risk in a structured way serves New Zealand well in the context of the management and development of onshore resources under the Resource Management Act. Such an approach will serve the national interest equally well in the responsible exploration and development of our marine resources.

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