

New Offshore Mining Laws

New legislation will strengthen the regulation of offshore mining and essentially become a Resource Management Act for the sea, write Dunedin lawyers Sarah Simmers and Stephen Christensen.

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.

At present the environmental effects of offshore activities are managed by several different Acts which govern activities in the exclusive economic zone and extended continental shelf in a piecemeal way. The new Act is intended to fill the gaps.

A marine consent will soon be required to carry out certain offshore activities and the Environmental Protection Authority will manage the consent process.

Operational and technical details of the new regulatory framework will be finalised in 2013. Meanwhile, the Government has set up voluntary measures to manage risks.

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

Offshore mining already makes a significant contribution to the 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 and could also result in substantial benefits to regional economies. A South Island oil and gas field development could increase regional GDP by between \$557 million and \$3.2 billion, the Ministry of Business, Innovation and Employment recently estimated. A study has been commissioned to identify the potential costs and benefits of developments in the East Coast of the North Island.

Investment in petroleum and minerals is highly mobile, so if New Zealand is to benefit socially and economically from a new wave of exploration and development, it will need to be on the back of responsible and internationally attractive consenting, royalty, and taxation policy. 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. 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.

Sarah Simmers and Stephen Christensen are Dunedin-based partners in Anderson Lloyd Lawyers and specialise in commercial and resource management law.

Contact Us



Sarah Simmers, Partner

Phone: 03 467 7184

Mobile: 027 270 3907

Email: sarah.simmers@andersonlloyd.co.nz



Stephen Christensen, Partner

Phone: 03 471 5430

Mobile: 027 448 2325

Email: stephen.christensen@andersonlloyd.co.nz