

New Regime for Exploring and Developing Natural Resources within the Exclusive Economic Zone and Continental Shelf

The opportunity to explore and develop the natural resources of the Exclusive Economic Zone ("the EEZ") and the Continental Shelf is a significant one for New Zealand. It is important that we have a robust regime in place to allow the positive effects of such activities to be realised, while ensuring the actual and potential adverse effects are understood and managed properly.

On 28 June 2013 the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 ("the Act") and the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Permitted Activities) Regulations 2013 ("the Regulations") came into force.

The combined effect of the Act and the Regulations is to establish such a regime. The Act significantly changes the way activities, which take place in the EEZ and on the Continental Shelf, will be managed in future. While the number of such activities is presently low, it is likely that this will change over time.

Under the Act no person may undertake certain activities in the EEZ and on the Continental Shelf unless the activity is permitted, authorised by a marine consent, or is an existing activity or planned petroleum activity.

The following activities will generally be permitted – provided they comply with conditions for undertaking the activity without a marine consent:

- Seismic surveying
- Marine scientific research
- Some submarine cabling
- Prospecting for petroleum and minerals
- Exploration for minerals (excluding drilling for petroleum)

The following activities will generally require a marine consent to occur in the EEZ and on the Continental Shelf, unless the activity is permitted:

- A structure, pipeline or submarine cable
- Destruction, damage, or disturbance of the seabed or subsoil which is likely to have an adverse effect on marine species or their habitat
- Disturbance of the seabed or subsoil likely to have an adverse effect on the seabed or subsoil
- The removal of non-living natural material from the seabed or subsoil
- The deposit of any thing or organism in, on, or under the seabed

In addition, the following activities will generally require a marine consent to occur in the EEZ:

- Activities which involve a structure or part of a structure (such as mooring or anchoring long-term, placement, alternation, removal or demolition)
- The causing of vibrations in a manner that is likely to have an adverse effect on marine life
- The causing of an explosion

For most permitted activities, the Regulations prescribe pre-activity notification of the Environmental Protection Authority (EPA, which is responsible for administering the Act). Pre-activity consultation with Maori and post-activity reporting to the EPA is also necessary. Operators who carry out marine scientific research, mineral prospecting or exploration are required to carry out initial environmental assessments and to have contingency plans for encountering sensitive marine environments (which are defined according to habitat).

For activities requiring a marine consent, the Act requires that an application include an Impact Assessment. The application for marine consent will be publicly notified and anyone can make a submission. If granted, marine consents will impose conditions which may require you to monitor and report on your consent and the effects of your activity.

The EPA is required to monitor compliance with prescribed conditions. Other regulations, also introduced on 28 June 2013, provide for the EPA to recover the costs incurred in performing its functions and providing services under the Act.

If you have an interest in New Zealand's EEZ or Continental Shelf, or are planning to in future, please contact our specialist resource management team.